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THE ROYAL COMMISSION ON TRANSPORTATION

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THE ROYAL COMMISSION ON TRANSPORTATION

Fredericton,
New Brunswick,
Tuesday, July 19th,
1949.

THE HONOURABLE W.F.A.TURGEON, K.C. LL.D. Chairman

HAROLD ADAMS INNIS Commissioner

HENRY FORBES ANGUS Commissioner

- - - - -

G. R. Hunter,
Secretary.

P. L. Belcourt,
Asst. Secretary.

- - - - -

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THE CHAIRMAN: Very well, Mr. Covert.

MR. COVERT: Mr. Chairman, I think we are to continue with the cross-examination of Mr. Love by railway counsel.

R. J. LOVE, recalled

CROSS-EXAMINATION BY MR. SPENCE, Cont'd

Q. Professor Love, when we adjourned yesterday afternoon we had just about come to the point in the brief where you are dealing with tables; that is the section which commences on page 26; and now, I would like you to turn to page 28.

MR. BARRY: Mr. Chairman, there is a slight correction to be made. I apologize for interrupting Mr. Spence; but on page 30, in the second paragraph, line 6, the figure \$20.24 should read \$14.18; and the bracketed figures (220 x 9.2) should read (220 x 6.9). The explanation is that some of the figures were based on a 75-lb. bag, while the others were based on a 100-lb. bag, and we would have to bring them into line, one with the other.

MR. SPENCE: Q. Now, Professor Love, will you turn back to page 28 where you can see, at the top of the page, you give some figures taken from the Fruit and Vegetable Weekly Crop and Market Report, No. 36, volume 20, dated 6th December, 1948.

I notice that your brief is dated, on the first page, July 15, 1949; and I wondered whether you had any more recent report now than the one which is quoted in your brief?

A. No, I have not; although, there may be available similar statements in recent Fruit and

Vegetable Crop and Market Report; but I do not believe the summary for the potato crop for 1949 is out; it comes out in December. However, I imagine similar figures could be found; and I am almost certain that they would show the same variations.

Q. Would you say that the report which you refer to gives a typical example of the difference in prices between New Brunswick and Ontario potatoes?

A. Yes. I think it would be fair to say that.

Q. Were not the prices shown the prices that obtained before the floor price of 86¢ came into effect?

A. That is true. The floor price made a difference.

Q. Is it not true that there are very wide seasonal fluctuations in the price of potatoes?

A. Yes, that is true.

Q. Could you tell me, approximately, the price of a 75-lb. bag today?

A. You mean delivered by the farmer at the shipping point?

Q. Similar to the prices shown on page 28, yes?

A. No, I cannot. But we have a witness here who could, Mr. Crandlemire.

MR. BARRY: Mr. Chairman, Mr. Crandlemire is here. He is secretary of the Potato Growers' Association. Perhaps, with your permission, we might call Mr. Crandlemire.

THE CHAIRMAN: Very well.

HARRY CRANDLEMIRE, called

MR. SPENCE; Q. What is the price of potatoes today, Mr. Crandlemire?

A. It is pretty hard to give a price on potatoes, because New Brunswick is not marketing any potatoes at present. The old price ran \$2.25 a barrel, which was about the highest. It would be \$1.10 or \$1.12; that was the top price that they got this spring.

Q. Can you give me any price for the new potatoes?

A. No, I do not know what the new price is.

Q. Would it be, approximately, the same, or would it be higher?

A. Oh, it would be much higher.

Q. How many pounds in a barrel?

A. 165.

Q. So, from that we could calculate the price for 75 pounds; but you say that a 75-pound bag of old potatoes would be from \$1.10 to \$1.12?

A. Yes.

Q. And the price of the new potatoes, per 75-lb. bag, would be very much higher than that?

A. Probably \$2.50 per 75-lb. bag.

MR. COVERT: Q. What is your first name, Mr. Crandlemire?

A. Harry.

MR. O'DONNELL: Q. And you are secretary of the Association?

A. No, president.

MR. COVERT: Mr. Crandlemire is president of the New Brunswick Potato Growers' Council.

MR. SPENCE: Q. Does your Association sell potatoes in the United States market?

A. No. We do not market potatoes at all.

Q. Do the growers of New Brunswick, to your knowledge, sell in the United States market to any extent?

A. You mean the grower, direct, or through a shipper?

Q. Are New Brunswick potatoes sold in the United States?

A. To a considerable extent, yes.

Q. Where is your competition? Where does your competition come from?

A. In the American market?

Q. In the American market?

A. From the Island; that is, our Canadian potatoes.

MR. O'DONNELL: Q. When you say "the Island" you mean Prince Edward Island?

A. Yes, and from the state of Maine.

MR. SPENCE: Q. Where does your competition in the Canadian market come from?

A. That would come from Prince Edward Island and from central Canada.

Q. Is Central Canada self-sustaining in the production of potatoes?

A. Not as yet.

Q. So it must call upon the Maritimes?

A. For considerable quantities.

Q. To supply its deficiency. Well, then, would you say that the Maritime provinces have an economic advantage over the rest of Canada in supplying that deficiency market? I suggest that not only is it the matter of nearness to the market, as compared, let us

say, with ~~w~~^estern Canada, but also, in the matter of fertility of soil, and the quality of your product?

A. Possibly. If it was not for the freight haul, we would have an advantage.

Q. How does the quality of your potatoes compare with the potatoes grown in central Canada?

A. The consumer, many times, claims they are of better quality.

Q. The consumer claims they are of better quality; and you do get a premium, do you not?

A. Yes.

Q. A premium on your potatoes because of quality?

A. Yes.

Q. In the central Canadian markets?

A. Yes.

Q. Do your New Brunswick potatoes go as far west as Chicago?

A. I think I will have to leave that up to the Minister of Agriculture or to Mr. Cunningham. The Minister is here, and Mr. Cunningham will be here. I am not familiar with the shipments, no, that far west.

Q. On page 31, Appendix A, did you have anything to do with the preparation of that table?

A. Yes, we prepared it at the office.

Q. I notice at the bottom of that table you say "Interest on investment" at the rate of 6 per cent.

Now, at pages 2 to 7 of this brief, the Government of the Province of New Brunswick recognized the right of the railways to a fair return on investment, and I would like to point out to you -- if you do not know it already -- that the Canadian Pacific's

return on its investment in railway property in 1948 was only 1.8 per cent; and that is 4.2 per cent below the return on investment which you considered to be a fair part of your costs.

MR. FRAWLEY: Mr. Chairman, I think that at this time the attention of the Commission should be called to the very fact that the railway's investment and what should constitute it is at present sub judice before the Board of Transport Commissioners. We called attention to that before.

THE WITNESS: In explaining that, Mr. Spence, this interest on investment of 6 per cent was interest on the cost in producing the acre of potatoes. It was not on the investment. It was just the interest on the cost.

Now, unfortunately, many of us fellows up in the potato growing area have to go to the banks to be financed. And we cannot get loans for less than 6 per cent, so that is the basis of the figure for interest on investment.

THE CHAIRMAN: Q. The word "investment" as used here, includes costs?

A. Yes, that is part of the cost.

MR. FRIEL: Interest on loans.

MR. SPENCE: Q. The money you use to produce the potatoes; whereas, in the railways' case, it is the money they use to produce transportation?

A. Yes, it is the money you use. It is really not interest on investment, from the standpoint of equipment on the farm, and so on. It is just interest on actual cash outlay per acre, to produce that cost.

MR. O'DONNELL: Q. It is temporary financing during the season?

A. Yes, temporary financing.

MR. SPENCE: I have no further questions of Mr. Crandlemire. But I do have one or two more questions I would like to ask of Professor Love.

R. J. LOVE, recalled

CROSS-EXAMINATION BY MR. SPENCE, resumed

Q. Before we leave the primary products, Mr. Chairman, I notice that the fishing industry is not dealt with in the brief of the province. I would like to direct the attention of the Commission to the 1948 report of the Department of Industry and Reconstruction, copies of which, I am sure, my learned friend Mr. Barry would be only too happy to supply to Mr. Hunter. The Commission might find that on the question of the fishing industry there is some interesting information on pages 16 to 18.

THE CHAIRMAN: What is this document that you refer to?

MR. SPENCE: Mr. Chairman, it is the Department of Industry and Reconstruction, Annual Report, 1948.

THE CHAIRMAN: Is that the New Brunswick Department?

MR. SPENCE: The New Brunswick Department, yes, Mr. Chairman.

MR. COVERT: Perhaps, Mr. Chairman, Mr. Spence had better have it put in as an exhibit, unless he is going to read it.

MR. SPENCE: Yes, Mr. Chairman.

THE CHAIRMAN: And whereabouts in the report?

MR. SPENCE: Pages 16, 17 and 18; and I would like to read two small extracts from pages 16 and 18.

On page 16, I read:

"When the total figures for the year 1948 are finally compiled and completely revised, it is expected that New Brunswick's commercial fish catch will reach 224,238,300 pounds with an all time high landed value to its 9000 fishermen of \$7,689, 128. This compares with a landed catch of 214,293,000 pounds for 1947 and a value of \$5,674,300."

And then, on page 18, I read, at the top of the page:

"While the exact marketed value of New Brunswick's fisheries is not available at this early date, it may be safely estimated that it will reach an all-time high record of over \$21,000,000. It ranks third among the leading industries in the Province and we can assume that the fishing industry has in the last decade shown a larger percentage of increase and progress to New Brunswick than in any other province of the Dominion. Its marketed fish catch worth \$3,906,000 in 1938, increased in 1942 to a value of \$7,132,000, reached \$16,419,000 in 1946, and as mentioned above, soared over \$21,000,000 in 1948.

"The enormous development of our fisheries should more than ever make us conscious of the tremendous potentialities of our fisheries resources and we should take advantage of every

opportunity to open new frontiers while enthusiasm still exists and the trend is still upward."

THE CHAIRMAN: You have just read that fishing is the third industry, lumber being the first, I suppose. What is the second?

MR. BARRY: Lumber, potatoes, and fishing.

THE WITNESS: Forestry, agriculture and fishing. Although manufacturing rates ^{are} higher than any of them. But the manufacturing figures include figures which are also included in forestry, so that our primary industries are, forestry, agriculture, fisheries, and construction. Those are for 1946, but I think it is relatively the same now.

MR. SPENCE: I have only one copy of this report; but perhaps Mr. Barry would obtain further copies for filing with the Board. And, as there are figures to substantiate the statements that I have read, on pages 16, 17 and 18, perhaps it should be filed as an exhibit.

MR. COVERT: It will be Exhibit 52.

EXHIBIT NO. 52 -- Filed by Mr. Spence.
Province of New Brunswick,
Department of Industry and
Reconstruction Annual
Report, 1948.

MR. BARRY: I will have them within an hour.

MR. SPENCE: Q. Now, at page 32 of your brief, where you speak of manufacturing, you say, on that page that the industries of New Brunswick were not able to compete with more favourably located competitors; and you point out that some of the industries here are producing a quality or special product.

Is it not a fact that industry has compen-

sating advantages in producing a specialty product in the Maritimes? For instance, would not cheaper labour be found here than in the more highly industrialized cities; and cheaper rents and cheaper municipal services, and other advantages?

A. Cheaper labour merely indicates that we are on a lower standard of living. That is something we do not like. That is not something to brag about. That is something to be remedied.

Q. You say, in the first paragraph on page 32:

". . . that the workers, on an enforced low

standard of living, were subsidizing industry. . ."

But is it not a fact that labour has a lower cost of living in Fredericton, for example, than it has in a more highly industrialized city, such as Montreal?

A. I do not agree with that. I have lived in both places, and I think, from your cost of living indices and you prices, you will find that our retail prices for food, down here, are much higher than in Montreal or Toronto. And food is one of the main wants that labour has to contend with.

MR. BARRY: Those statistics are issued by the Department of Labour at Ottawa weekly, and they speak for themselves. And they show the Fredericton and the Maritime centres to be higher than some of the others based on commodities, including rent.

MR. SPENCE: I thought that Montreal was usually at the top of the list.

MR. BARRY: It is Halifax, is it not?

THE CHAIRMAN: If the figures are published, then they speak for themselves.

MR. BARRY: The Labour Gazette has the figures.
(Page 4176 follows)

THE CHAIRMAN: Perhaps Mr. Barry will be able to get them for us.

MR. BARRY: I have copies of them, Mr. Chairman, but not the latest.

THE WITNESS: I think it is because of the special product, the fact that they are better than the competitors' enables them to carry on.

MR. SPENCE: Q. They can make better products in the Maritimes?

A. Where that has happened industries have been able to hold on. It is only those that have held on since Confederation.

THE CHAIRMAN: Q. It is only those -- ?

A. It is only those that have a special product or a specially good product who have been able to hold on and keep on manufacturing down here in New Brunswick.

MR. SPENCE: Q. Now I would like to pass on to something else. I understand, Professor Love, you do not care to speak about the part of the brief dealing with the Trans-Canada Highway?

A. I can add nothing to what is there.

Q Then I believe that there will be another witness who will speak as to that. On the subject of railway crossing elimination, on page 34, perhaps I can ask you one or two questions, Professor Love, and if you do not feel that you can answer them, then we can perhaps have someone else. You point out that there are approximately 32,000 railway crossings in Canada, and you suggest that they should all be protected. On page 4 of the brief, item 8, the

general statement is made that railways be required to adhere to a definite policy designed to eliminate all level crossings within a reasonable period. That is not quite the same, I think, as the statement on page 34, which says that they should all be protected, either by grade separation or by the installation of flashing lights and bells. Now, have you any idea of the cost of a grade separation?

A. Yes, I know that they cost a lot.

Q. Well, I suggest that the cost at the present time of the normal grade separation has been running from \$150,000 to \$750,000, the \$750,000 being perhaps not quite normal because there would be special circumstances that would make it so high, but I suggest that perhaps the cost of an average grade separation would be somewhere in the vicinity of \$250,000. Now, I do not ask you to accept that figure, but if you take that figure and apply it to your 32,000 railway crossings, you would have an expenditure of eight billion dollars?

A. Well, I think what we are pointing out, Mr. Spence, is the necessity to eliminate as many crossings as possibly can be eliminated, and certainly to guard with the most modern type of protection all crossings. It is a matter of dollars and cents and human lives.

Q. Have you looked into the cost of installation of flashing lights and bells at crossings?

A. No, but I do not think that should be the important factor. We can find money all right for things like that.

Q. Well, I suggest that the cost is usually in the

vicinity of \$4,000 for the installation of flashing lights and bell at a crossing, and it sometimes runs considerably higher than that if there are complicating features such as bonded track and so on?

A. We set that forth as a programme we think should be embarked on as soon as possible. We recognize the difficulties.

Q. If you took your 32,000 railway crossings and you eliminated the grades at say 10,000 out of the 32,000, then you would have an expenditure for grade separation of two and a half billion dollars, and at \$4,000 apiece for flashing light protection at the others you would have an additional eighty-eight million dollars. Is it your proposal that expenditures to this extent should be made or could possibly be made and not upset the whole economy of this country, and of course of the railways, the railways particularly?

A. Well, I will go so far as to say that a programme of grade crossing elimination and grade crossing protection should be carried out without too much regard to the cost, but with particular regard to making the highways safe.

Q. Are you familiar with the fact, Professor Love, that the Board of Transport Commissioners is already provided by the Government with \$500,000 a year for this very purpose?

A. Yes, I know that, but we think that more should be done than is being done -- much more.

THE CHAIRMAN: You say that the Board of Transport Commissioners is provided with half a million dollars a year?

MR. SPENCE: Yes, my lord.

THE CHAIRMAN: How do they expend it?

MR. SPENCE: In contributions toward additional safety at grade crossings, either by the --

THE CHAIRMAN: You mean the Board hands it out to the railways when they approve of some work that the railways are carrying on? Is that it? They pay part of the cost?

MR. SPENCE: Yes, my lord. When a crossing is found to be dangerous and to need additional protection, or in the alternative complete separation of grades, the Board will order the protection or grade crossing elimination to be performed, and it is empowered under section 262, as amended in 1928, 1929 and 1948, to contribute up to 40% of the cost of the actual work of improvement at the crossing, subject to a maximum contribution by the Board for any one project of \$100,000.

MR. COVERT: Mr. Chairman, I might just add, my understanding is that Parliament votes this sum annually, and it is under the administration of the Board of Transport Commissioners.

THE CHAIRMAN: Yes; I am just reading section 262. It is a fund known as the Railway Grade Crossing Fund, and the section sets out how it is to be expended.

MR. SPENCE: Yes, that is correct, my lord.

THE CHAIRMAN: It is a contribution solely to the cost, not to the maintenance.

MR. SPENCE: Not to the maintenance, no, my lord. It is only to the actual work of construction of any improvements for the purposes of safety.

In most cases, of course, my lord, the railway and the municipality involved also contribute toward the cost, and the proportions in which they contribute are decided by the Board in the individual case.

THE CHAIRMAN: I see the section provides also for provincial contributions to the fund.

MR. SPENCE: Yes, my lord; if it is a Provincial Highway the Province may agree to contribute.

THE CHAIRMAN: And that does happen, does it?

MR. SPENCE: That does happen, yes, my lord. There is sometimes a little difficulty in that respect because the King in the right of the Province is not subject to Orders of the Board, but usually an agreement is worked out, the Province feeling that safety measures should be taken and agreeing to contribute to the measures to a certain extent.

THE CHAIRMAN: I suppose, Mr. Spence, what you mean now by pointing out these facts is that Parliament has already provided.

MR. SPENCE: Parliament has already provided, yes, my lord.

THE CHAIRMAN: With the Dominion Government's assistance.

MR. SPENCE: Yes, my lord. It is the policy of the Government as expressed in the Act to eliminate these dangerous crossings as much as can be reasonably done, and the railways of course are just as much in favour of safety measures as anyone. It is more a matter of how these expenses can possibly be borne, in view of the large number of crossings, the 32,000 crossings that Mr. Love mentions in the country.

I have nothing further to ask Professor Love.
Thank you very much.

MR. O'DONNELL: I might just say, Mr. Chairman and members of the Commission, that I would want it to be understood that our position is the same as that taken by Mr. Spence; if we do not happen to ask questions on any particular statement, it does not necessarily mean that we agree with what has been put forward.

CROSS-EXAMINED BY MR. O'DONNELL:

Q. On page 4, Professor Love, of your brief, paragraph number 2, in considering what I think you call the national point of view, have you given any thought to the attitude that the Toronto or Ontario manufacturers and distributors would adopt with respect to that particular recommendation, and also possibly the people in Manitoba and Alberta?

THE CHAIRMAN: Which paragraph is that?

MR. O'DONNELL: Paragraph 2 on page 4.

Q. Would not that proposal have the effect of disturbing established markets if put into effect, which I understood you said you felt should not be done?

A. No, I do not think that the Toronto manufacturer need fear competition from a manufacturer in New Brunswick, even with a reduced freight rate up there. I do not think that the type of thing we would be shipping out would disturb them. As a matter of fact, it should help the consumer up there.

Q. Have you looked into that aspect of it

A. No, we have not considered their reaction.

Q. Now, incidentally, with respect to that proposal that you go further west with respect to the Maritime Freight Rates Act, a somewhat similar proposal was put forward, was it not, to the Rowell-Sirois Commission? Are you familiar with that?

A. Yes.

Q. That is, they went into the grounds of the proposed extension and operation of the Intercolonial?

A. Yes.

Q. On so-called grounds of national policy, on the extended basis that you suggest, by having it move into Ontario, so to speak?

A. I believe they recommended the review by a tribunal such as this.

Q. On page 250 of the Rowell-Sirois Report, Vol. 2, appears the following --

THE CHAIRMAN: Just a minute now; you are referring to what?

MR. O'DONNELL: Q. The report of the Rowell-Sirois Commission, Vol. 2, page 250, a short extract which reads as follows:

"It is suggested in the supplementary brief of New Brunswick that Resolution 66 also involved the extension of the Intercolonial into the Great West to be operated on grounds of national policy with freight rates not based on commercial considerations. There is no citation of documentary support for this contention, and we find no contemporary evidence that this future for the Intercolonial was in the mind of anybody at that time."

Then there is a footnote 7 on the same page which reads:

"It was apparently not until 1903 that any suggestion of extending the Intercolonial beyond a terminus of the St. Lawrence was made by responsible parties. In that year R. L. Borden and the Hon. A. G. Blair suggested extension of the Intercolonial to Georgian Bay as an alternative to the construction of the National Transcontinental."

And it gives a reference to the debates in the House of Commons. You know of no additional information that you could put before the Commission since that which was put before it by New Brunswick at the time the Rowell-Sirois Commission was taking evidence?

A. No, but I would point out that the intent of the I.C.R. was to get us in the metropolitan markets of Central Canada. Montreal is not the only metropolitan market; it goes on to Toronto, and I think it would be logical to expect that traffic between Montreal and Toronto would be regarded as an extension of the I.C.R.

Q. But, in any event, you know of no other documentary evidence than that which was available to and put before the Rowell-Sirois Commission, which would support your proposal?

A. Not offhand, no.

THE CHAIRMAN: Was the proposal before the Rowell-Sirois Commission the same as the one before us now?

MR. O'DONNELL: Well, the same general idea,

that the I.C.R. should be extended beyond --

A. That is not our proposal.

THE CHAIRMAN: The freight rates link up with it in a certain way.

MR. O'DONNELL: Yes, but that is part of the operation, as I understand it, of the I.C.R., that the freight rates on the I.C.R. should be extended to include access to Toronto markets.

Q. Isn't that the proposal?

A. Not just the I.C.R. We don't care what railway hauls it; it can go C.P.

Q. But your theory is based on what you suggest was the original understanding concerning the Intercolonial Railway and its construction?

A. Yes, and more than that, that we were to get into those metropolitan markets. That is the basic thing. The I.C.R. was only an implement for that.

Q. But you have no further information, in any event?--

A. I can think of nothing --

Q. -- than was put before the Rowell-Sirois Commission; that is all I want. Now, as to your suggestion that the Maritime Freight Rates Act should work both easterly and westerly, is it your position that the established manufacturers here in the Maritimes are in favour of the proposal which is your proposal 3?

A. The New Brunswick manufacturers have indicated no fear of that.

Q. That is, you distinguish between the Maritimes as such and New Brunswick?

A. We cannot speak for Nova Scotia and Prince Edward Island.

Q. Now, I was just wondering whom you might have discussed that matter with; did you, for instance, take it up with the T. McAvity Company of Saint John, who handle heavy hardware?

A. The matter was discussed at a committee meeting in Saint John representing the Maritime Branch, Canadian Manufacturers' Association.

Q. You do not know what their view is?

A. They had no objection to that.

Q. The McAvity Company?

A. McAvity's? I don't know.

Q. Did you take it up, for instance, with the Northern Machinery Works at Bathurst? They are manufacturers of heavy equipment, are they not, bulldozers and that kind of thing?

A. That is right.

Q. Do you know what their view would be on it?

A. No, I do not know what their view is. I have talked to them, but I feel that they would be quite happy if they got their steel down cheaper.

Q. And if they had --

A. They make a specialty product which they are able to market as far as the mid-west, I understand, because it is a special product; it is just the same as the other Maritime industry.

Q. You do not think they would have any objection to the Central Canadian manufacturers moving into their Maritime market?

A. I do not think they would have to fear competition

from them at all. They might have an objection; I cannot speak for them.

Q. I was just wondering if you had taken it up with them?

A. Not specifically.

Q. The Sims Brush Company, for instance, do you think they would be delighted to have the Fuller Brush people ship their product in here on the Maritime freight rate?

A. I believe I heard Mr. Sims say he was not frightened of competition from any company. I do not like to be quoting another man's opinion.

Q. Yes, but did you take up this particular proposal with him?

MR. BARRY: Yes.

MR. O'DONNELL: And he has no objection?

MR. BARRY: No.

MR. O'DONNELL: All right.

Q. Now, the steel people -- of course, you make a distinction, that you are not speaking for Nova Scotia. You have not surveyed the matter with the Nova Scotian people?

A. No, but you will notice that we make the distinction there that established industries should not be upset.

Q. Yes, I believe industries should not be upset -- here in New Brunswick?

A. Well,^{as}/a general principle, an economic principle, I think you have to take care of that. That is the case against the horizontal increase.

Q. And would you agree that that general principle

of yours should apply throughout the country, that there should be no disturbance of established industry?

A. Care should be taken not to upset industries that are set up, yes.

Q. For instance, the potato industry in Central Canada should not be disturbed by your invasion of their market now, having lost the British market and your overseas markets?

A. If we get what we want through, or if we keep the freight rate down into Central Canada, it is not going to hurt the central Canadian producers.

Q. But it is going to put more potatoes in the market and certainly disturb the market up there, isn't it?

MR. BARRY: It is not right to say that we are going into the Canadian market because we lost overseas markets in potatoes. That might apply to lumber, but not to potatoes. That is the natural market anyway .

MR. O'DONNELL: But that market was not developed to any extent while the overseas markets were open.

MR. BARRY: There was never any overseas market for potatoes.

MR. O'DONNELL: Well, export of potatoes to the United States and those countries.

MR. BARRY: The Canadian markets are always the natural market, substantially. That principle might apply to lumber, but not to potatoes.

MR. O'DONNELL: Well, I am looking at the Report of the Director of the Potato Production and Marketing Service, which is contained in the Annual

Report of the Department of Agriculture for 1948, and which appears at page 111 and following, and there it indicates that there was a heavy demand from South American countries and from the United States.

MR. BARRY: That is seed stock.

MR. O'DONNELL: In 1948 marketing of the crop was highly successful, largely because of heavy demand from South American countries and the United States, and reasonably good demand in Central Canada.

THE WITNESS: Our South American market is practically all seed potatoes, special. I think if you read our case on potatoes you will see what we are asking for is not going to be unfair to the Ontario producer.

MR. O'DONNELL: Q. Well, in any event --

THE CHAIRMAN: Mr. O'Donnell, do you intend to establish that what is being asked for here : would be unfair to the Central Canadian producer?

MR. O'DONNELL: Well, I am just suggesting that having to find a new market --

THE CHAIRMAN: As a result of this question we won't be any further ahead unless you attempt to show something positive.

MR. O'DONNELL: Well, I had some further questions to take up with the potato people when they came; I did not intend to go into it with Professor Love, but it occurs to me that if more of the potato crop is being sent into Central Canada now than previously, it would naturally disturb the market which prevailed formerly there for potatoes,

and I was merely asking him if that theory or rule or principle which he sets up, that established markets should not be disturbed in so far as possible, would apply with respect to potatoes.

THE WITNESS: Shipping our potatoes is not going to hurt their market.

THE CHAIRMAN: It depends on what you mean by disturbing.

MR. BARRY: Our point, Mr. Chairman, is not to allow us to ship more potatoes in; it is to allow us to ship potatoes in at a freight cost that will allow a fair return to the producer, not to ship any more.

THE CHAIRMAN: I think, though, you would prefer to ship more, would you not?

MR. BARRY: If we could grow more, sir, I think so.

THE CHAIRMAN: That is not necessarily a disturbance of a market.

THE WITNESS: We will always have to pay a freight rate; they will always have an advantage there.

THE CHAIRMAN: There may be a shortage at some time.

MR. BARRY: We would not like the freight to wipe out the profit on what we do ship.

MR. O'DONNELL: Q. On pages 3 and 4 you speak of not disturbing the differential freight rates, and then at page 4005 of the transcript of your evidence yesterday you refer to "our producers down here". Are your producers down here in any different position from --

THE CHAIRMAN: Where is this, Mr. O'Donnell?

MR. O'DONNELL: In the transcript, my lord,

at page 4005.

Q. Are your producers down here in any different position from that of producers and shippers in other parts of the country with respect to the differential? Was not the differential in Saskatchewan and Alberta, for instance, disturbed to a greater extent owing to their longer haul by the 21% increase?

A. That might be, and if it has been then they deserve to have correction the same as we do. I imagine they will tell you that.

Q. I took it that you suggested that your differential should never be changed; is that correct?

A. Once an established differential is set up an industry develops on that basis; if it has to be changed it certainly should be done with a great deal of thought and care to not upset established industries.

Q. I quite agree with that.

A. It is pretty difficult to be that categorical about it.

Q. I took it you were making some suggestion with particular reference to the Maritime Freight Rates Act, and I just wondered where you found support for saying that the differentials of which you spoke should never be changed, because, on my understanding of the Maritime Freight Rates Act, what you are entitled to is a statutory difference of 20% on the preferred movement in and out of the select territory; isn't that the situation?

A I think the 20 per cent reduction you are talking about and the differential we are talking about are two different things.

Q That may be, but where do you find support for the statement that I understood you made that the differential should not be disturbed?

A We are just thinking of the case of keeping our industry and keeping us on an even keel down here.

Q It is your opinion?

A Yes.

MR. BARRY: It could be illustrated by the case of the manufacturers in dollars and cents.

THE WITNESS: Yes, the manufacturing case shows a typical example.

MR. O'DONNELL:

Q Is not the situation fully protected by reason of the reserve which the Board of Transport Commissioners indicated in their judgment existed, and in any case where you could establish you were prejudiced the Board on complaint or on its being brought to their attention could go into the matter and adjust it?

A Yes, I know about that. I would prefer Mr. Matheson to talk on that.

THE CHAIRMAN: You are referring now to the Maritime Freight Rates Act?

MR. O'DONNELL: Yes.

THE CHAIRMAN: What section of the Act do you have in mind?

Mr. O'DONNELL: Well, sections 7 and 8. They are entitled to a statutory preference.

THE CHAIRMAN: Where they give general purposes of the legislation.

MR. O'DONNELL: That is right, and any time that statutory advantage is disturbed then the Board, on its being brought to their attention, has the right and power to adjust it. I think that is made clear, Mr. Chairman, by the Board's own judgment at page 65, and there is also a further reference at page 46. At page 65, speaking of horizontal increases, the Chief Commissioner said:

"Strong exception was taken by the respondents to the granting of a straight percentage increase in freight rates. But, as I view the matter, this is the only workable and practical method of dealing with the question in order to provide the additional revenue required by the railways."

Then he went on to indicate that there might be cases which would have to be adjusted.

Q Have you any suggestion, Professor Love, which you could put forward instead of the procedure adopted by the Board in raising rates, some practical suggestion so that the millions and millions of rates which are involved in a general rate increase can be dealt with expeditiously and promptly, other than that which was put forward by the Board itself, reserving the right of anyone who had a complaint or who was prejudiced, to come forward later?

A I can see it would be a very difficult task. I do not know enough about rate making and the structure of tariffs and constructing them to give an opinion on that which is worth anything. Our extension of the Maritime Freight Rates Act is a sort of alternative to horizontal

increases.

Q If your rights are protected, as I understand the Board's judgment protects them, is that not sufficient for all practical purposes?

A I understand that saving clause is rather difficult to invoke. I think Mr. Matheson, as I said, could discuss that better than I can.

THE CHAIRMAN: Was that clause invoked before the Board? Did the Board deal with it?

MR. O'DONNELL: I do not think the Board has had any specific complaint from anyone.

THE CHAIRMAN: I mean on the recent application. Was this contention put forward?

MR. O'DONNELL: Yes.

THE CHAIRMAN: That the Maritime Freight Rates Act would be affected?

MR. O'DONNELL: Yes. That was argued and the Board --

THE CHAIRMAN: The Board took account of that. I see that section 8 of the Maritime Freight Rates Act reads in apart as follows:

"....accordingly the Board shall not approve nor allow any tariffs which may destroy or prejudicially affect such advantages in favour of persons or industries located elsewhere than in such select territory."

That is pretty formal and positive.

MR. O'DONNELL: Yes, that is correct.

THE CHAIRMAN: Was the Board confronted with that?

MR. O'DONNELL: The argument was put forward that the Maritime Freight Rates Act prevented increases in freight rates. They went full out on that. It was argued at length by all my friends from the Maritimes, and notwithstanding that argument --

THE CHAIRMAN: It is not that it prevents increases in freight rates; it prevents any increases which will affect prejudicially the special advantages granted to the Maritimes by this Act.

MR. O'DONNELL: Correct.

THE CHAIRMAN: The Board heard that argument, did they, in reference to these increases?

MR. O'DONNELL: Oh, yes.

THE CHAIRMAN: And held then that these increases did not affect the situation prejudicially?

MR. O'DONNELL: I do not put it quite that way.

THE CHAIRMAN: They must have held something.

MR. O'DONNELL: They held they could increase all rates which were then in force by 21 per cent, and my suggestion is -- and I think it is clear from the judgment -- that they expressly reserved the rights of any who were prejudicially affected to draw to the attention of the Board the prejudice affecting them, which would be remedied.

THE CHAIRMAN: What is that again?

MR. O'DONNELL: If any particular shipper had any complaint as a result of the general increase, he was free to put his case before the Board for adjustment.

THE CHAIRMAN: Has any such application been made?

MR. O'DONNELL: Not to my knowledge, other than the fact that they have contested and the whole matter is before the Board at the present time for review. I know of no specific case where any shipper came forward and said, "I am particularly affected and prejudiced and I want it remedied."

MR. SINCLAIR: The B. C. Lumber Company.

MR. O'DONNELL: The British Columbia Lumber Company. I did not know that.

THE CHAIRMAN: What is that?

MR. SINCLAIR: The British Columbia Lumber interests filed an application.

THE CHAIRMAN: We are talking about the Maritime Freight Rates Act and the special advantages that are conferred upon the Maritime Provinces. That is where it arises. It is in connection with that Act that the Board is instructed not to allow any tariffs which may interfere with that special advantage.

MR. SMITH: May I refer you to page 81, the judgment of the Assistant Chief Commissioner, Mr. Wardrope, where Mr. Burchell's argument is dealt with at length.

MR. O'DONNELL: It is also dealt with at page 37.

MR. SMITH: By Chief Commissioner Cross.

THE CHAIRMAN: What is said at page 81?

MR. SMITH: It is quite long, Mr. Chairman.

THE CHAIRMAN: What is the gist of it?

MR. SMITH: It deals with the provisions of section 3, section 9, and sections 7 and 8.

THE CHAIRMAN: Of the Maritime Freight Rates Act?

MR. SMITH: Yes. Mr. Burchell's argument on that

point was that it was to give a statutory advantage in rates to persons and industries, and as I read the judgment, the conclusion is that Mr. Burchell's argument is not acceded to and, as Mr. O'Donnell said, the 21 per cent horizontal increase was granted. Of course, as you know, Mr. Chairman, the matter is still before the Board on the re-hearing. All these matters were sent back for re-hearing. I appeared on the re-hearing and I made the same argument. I adopted Mr. Burchell's argument on this point.

THE CHAIRMAN: That is your point, is it, Mr. O'Donnell, **that** there is sufficient remedy afforded by the Act itself?

MR. O'DONNELL: That is right.

THE CHAIRMAN: As it is now, and that the matter is still before the Board of Transport Commissioners on the re-hearing.

MR. O'DONNELL: Yes. Mr. Smith gave the reference to the judgment of the Assistant Chief Commissioner. As I mentioned, the Chief Commissioner himself discussed it at page 37 and following. There was a very lengthy discussion about it, and the matter was traversed from all angles. It is my suggestion that in any case where there might be prejudice that the shipper is amply protected, and has the right to draw it to the attention of the Board, and if he establishes prejudice in his particular case then he can have it rectified. I wondered if anything more than that was necessary in the view of Professor Love.

THE CHAIRMAN: What is it recommended that we ought to do, Mr. Barry? What do you say we ought to do in connection with this?

MR. BARRY: That is, with regard to Mr. O'Donnell's specific question.

THE CHAIRMAN: All we can do is recommend.

MR. BARRY: We recommend that the differential, as it existed before, be restored in order --

THE CHAIRMAN: That is the very thing you are asking the Board to do, is it not?

MR. BARRY: The same argument would apply, but rather than have a particular industry appeal to the Board the provincial governments concerned appeal on their behalf. The governments are particularly interested in the industries which would normally make an application of their own. Rather than do that these industries, generally speaking, are working with the governments.

THE CHAIRMAN: Is your application to the effect that the powers of the Board here ought to be extended, and more positive directions given to the Board?

MR. BARRY: That is one, sir, but with respect to the particular thing that the Board should be forbidden by statute, prevented from granting horizontal increases.

THE CHAIRMAN: Horizontal increases in themselves are thought to be bad things.

MR. BARRY: That is right, and we recommend that the provisions of the Maritime Freight Rates Act be so adjusted that the differential, as it existed before April 1, 1948, be restored.

THE CHAIRMAN: Be stabilized; is that it?

MR. BARRY: That is right.

THE CHAIRMAN: So as to be a part of the legislation?

MR. BARRY: That is right, so that the handicap under which --

THE CHAIRMAN: That is what you are asking for, that we recommend that the differential which existed at that time be considered as basic.

MR. BARRY: That is right.

THE CHAIRMAN: And not to be disturbed.

MR. BARRY: That is right. There may be some exceptional circumstances that would vary that. It will require an amendment to the statute.

THE CHAIRMAN: Well, somebody else may raise that.

MR. O'DONNELL: By not disturbing it at any time do you mean irrespecti e of what the cost of operation might be on the railways?

MR. BARRY: I said there may be exceptional circumstances, but we would just as soon have a statute preventing it from being disturbed without an amendment to the statute.

THE CHAIRMAN: The differential is a proportion, is it not? It is a proportion between two figures. You would have that considered as fixed and not to be disturbed.

MR. BARRY: That is right, sir.

MR. O'DONNELL: Does not section 3 (2) (b) provide all that is necessary?

THE CHAIRMAN: What section?

MR. O'DONNELL: Section 3 (2) (b) of the Maritime Freight Rates Act. That allows for increases or reductions in tolls and tariffs from time to time to meet increases or reductions, as the case may be, in the cost of operation. I would hope that no one would take the position that

notwithstanding the cost of operation a particular rate is never to be changed or altered.

MR. BARRY: I think we have made it clear, Mr. Chairman, that we are not asking the railways to carry the Maritime Provinces, or the Province of New Brunswick, on their shoulders. We do not ask them to lose money. We ask that the Dominion Government pay whatever difference is necessary.

THE CHAIRMAN: They are paying now.

MR. BARRY: In one way, sir.

THE CHAIRMAN: And if there is any further burden it should again be cast upon the Dominion Government.

MR. BARRY: That is right, sir. In this brief I have not seriously disputed nor mentioned that the railways require additional revenue. We anticipate they will require additional revenue, but it is the method by which they get it that put us in this position.

MR. O'DONNELL: If the differential is never to be disturbed no matter what the cost of operation may be --

THE CHAIRMAN: Apparently the real meaning is that the differential is not to be disturbed without compensation. Is that it?

MR. BARRY: That is right, sir.

THE CHAIRMAN: Borne by the Dominion Government, not by the railways.

MR. O'DONNELL: That is why I asked Professor Love if he had any support for taking the position that the differential should not be disturbed, other than his own opinion, and I think he agreed he had no other.

THE WITNESS: I have formed my opinion from

information that everybody has. I am not alone.

MR. O'DONNELL: Q. At page 5 of your brief you refer to the railways in these words, "with their practical monopoly." Have the railways not always had competition from lake and water business?

THE CHAIRMAN: Where is the reference to monopoly?

MR. O'DONNELL: Page 5 in the first paragraph, Mr. Chairman, "the railways, with their practical monopoly." Have they not always had competition from lake transportation and water transportation? There has not been any monopoly in that regard, has there?

MR. FRAWLEY: There are other areas, of course.

MR. O'DONNELL: I am coming to those. I am just taking one at a time.

THE WITNESS: I think if you read the context of the whole paragraph you will see it is the shipping of our products into Central Canada, that unless we get trucks of such a size and speed and on such a highway that we can compete and get our costs of shipping down, the railways practically have a monopoly.

MR. O'DONNELL: Q. Have trucks not also removed to some extent this so-called monopoly that you set up there?

A Yes, I suppose that is why the qualifying word "practically" is put in there.

Q And right here in your own province trucks have come in in considerable numbers over the last twenty years?

A Yes, for short hauls, as railway costs have gone up, trucking has taken over.

Q The Commission will find, Mr. Chairman, in the

Minister of
annual report of the Public Works for 1948 at page 111, the statistics concerning the number of motor trucks and public carriers. In 1926, for instance, when the Maritime Freight Rates Act was being discussed, there were registered 1,853 motor trucks, whereas in 1948 there were 16,984.

THE CHAIRMAN: In New Brunswick?

MR. O'DONNELL: Yes, Mr. Chairman. I am not going to trouble you with the details, but the statistics are set out there. As to public carriers, in 1926 there were twenty-eight whereas at the end of 1948 there were 399.

Q That is a very considerable growth?

A I think that is true all over Canada.

Q I did not think New Brunswick was any further behind the rest of the country in that respect, so that the monopoly of the railways, which you speak of, has been affected by the considerable growth in the use of trucks?

A Not to any extent on the long hauls to Toronto and Montreal. That is what that paragraph refers to.

Q At page 4040 of the transcript, and also at page 5 of your brief, you refer to a national transportation policy which you say in the brief, coordinated with other policies, must be put into effect. Does your national transportation policy involve the control of trucks and of their rates? Do you consider that aspect of the matter?

A We had thought of it but, of course, the highways are provincial matters, and in framing a national transportation policy, as we have used it there, we have not included federal control of trucking or of highways.

Q You are speaking for the province of New

Brunswick, and I take it this matter may have been discussed. Would the province of New Brunswick be willing to cooperate in a national transportation policy which would involve the control of trucks, both intra and extra-provincial in all matters of transportation?

A I do not like to speak for the government, but it is my impression that the Province of New Brunswick would not be favourable towards the control of trucks on a national basis. I do not think any of the provinces would.

Q You think they would like to retain that control for themselves?

A Yes.

THE CHAIRMAN: Can we not find that out more positively?

MR. O'DONNELL: I would like to.

MR. FRAWLEY: I raised that question yesterday, and I thought there would be someone who could say.

THE CHAIRMAN: Perhaps Mr. Barry can tell us.

MR. BARRY: That is definite; the province would not.

THE CHAIRMAN: Pardon?

MR. BARRY: They would not.

THE CHAIRMAN: They would not give up their jurisdiction?

MR. BARRY: That is right.

MR. O'DONNELL: Even to the extent to agreeing to cooperate by way of working out a national transportation policy such as they set out in their own brief at page 5?

MR. BARRY: That is a different question. When it is put to me that way, yes, we will, but not to put

ourselves in the position with trucks where we now find ourselves with railways.

MR. O'DONNELL: I am trying to find out what your suggestion for a national transportation policy entails. Unless trucks, ships, and other modes of transportation can be coordinated with the railways, it is very difficult in my view to find any effective national transportation policy.

MR. BARRY: I do not think the railways claim that there are many types of commodities which trucks can move more conveniently, more cheaply and more efficiently. There are things which they cannot and as to which the railways can do a much better job. It is with regard to those things that we feel that the policy of transportation, with particular regard to railways, should take into account the economy of the industry that it serves, and the effect of that transportation upon it.

MR. O'DONNELL: Would the government of New Brunswick be prepared to go along with a survey to determine what is the most effective transportation service for any particular commodity?

MR. BARRY: Yes.

MR. O'DONNELL: And to work out an arrangement whereby there would be some uniformity?

MR. BARRY: We would be perfectly glad to do that, but if the question is put to me directly, will the Province of New Brunswick surrender its control over trucks, I must answer no, but as far as surveying the situation as suggested by Mr. O'Donnell, yes.

MR. O'DONNELL: The Province of New Brunswick says in its brief:

"If our nation is to be a united one, a national transportation policy, coordinated with other policies must be put into effect."

THE CHAIRMAN: Where is that?

MR. O'DONNELL: Page 5. I wondered how that could be done unless the Province of New Brunswick was willing to go along with the other provinces and the Dominion in working out some unified control of transportation generally.

MR. BARRY: That could be.

MR. O'DONNELL: In keeping with the suggestion of the Chairman it might be well to have some definite information on that point in a formal way.

THE CHAIRMAN: It has been suggested somewhere that trucks should be included with railways under the jurisdiction of the Board of Transport Commissioners. That is what you say you think New Brunswick would not agree to?

MR. BARRY: I would say no, that New Brunswick would not agree to it.

MR. O'DONNELL: Q. Would you think, Professor Love, that the working out of a national transportation policy would entail the control of trucks and the fixing of their rates?

A No, not necessarily. I think it is a good thing we have the trucks.

Q That is quite true, but do you think they should not --

A Trucks are the only competition we have now. It is the only substitute; it is a sort of check.

Q Is it your view there should be no control

whatsoever over the rates that trucks are allowed to charge?

A I think the provinces should control trucking with regard to weights and speed, and probably enough regulation to prevent the type of competition which is ruining some of the small truckers who do not know what they are doing, but outside of that, no.

Q Is that not regulation of rates necessarily?

A I do not think it would necessarily involve that.

Q You have no more definite view on that at the present time?

A No.

Q At page 4035 of the transcript you said in part:
"....we do have this competition from people who are not affected by freight rates, particularly the truckers in the Central Canadian market."

What do you mean by that, Professor Love?

A I am not just sure what that refers to, but I imagine I had in mind the fact that potato growers around Toronto can truck into Toronto whereas we have to ship by rail. I think that is where that came in.

Q It may be, but the truckers in Central Canada, and the method under which they carry on business, does not affect you unless in any particular case you can point to specific prejudice?

A I am not just sure if I understand what you mean.

Q The rates that are charged by the truckers in Central Canada are matters indifferent to you, are they not, unless it happens to deal with a commodity that you

are shipping into the Central Canadian market?

A That is their affair.

Q That is what I thought.

A A great many farmers would have their own trucks anyway. You could not control that anyway.

Page 4205 follows)

Q. And just as it is a matter for you to run your own trucks in New Brunswick, you would agree that it is a matter for the Ontario people to handle their trucks in the same way?

A. That is right. If you put control on trucks, every farmer would have a truck and do his own trucking. I do not think it is possible to control them.

MR. BARRY: Is it not a fact that trucks do not haul more than 5 per cent of any freight, anyway? It is such an insignificant amount.

MR. O'DONNELL: I do not know about that.

THE CHAIRMAN: You are talking about New Brunswick.

MR. BARRY: Generally speaking, sir.

MR. O'DONNELL: Q. Trucks have taken away the cream of the business and have left the long hauls and the winter traffic for the railways.

MR. BARRY: I agree with that, generally; but the amount of freight which trucks have taken is very small, when compared to the total amount.

THE CHAIRMAN: The amount should be ascertained.

MR. O'DONNELL: Yes.

THE CHAIRMAN: And you think it is considerable?

MR. O'DONNELL: Yes, I do, and I think it has made serious inroads into railway revenues.

MR. BARRY: Possibly in terms of value, but not in terms of volume.

MR. O'DONNELL: Q. Now, in speaking about the Frigidaire yesterday, you said that you were agreeably surprised that the railway charges were so low, and you agreed that they were very much lower than on the American side of the line?

A. That is correct.

Q. Are there not very many other commodities besides Frigidair which are carried by the railway in the Province of New Brunswick, where the rates thereon are also very low?

A. I think so. I think our railways do a very good job. I might criticize them, however, for break-ages and things like that.

Q. But in many cases it is a fact that the freight is a very negligible item in the cost of the article?

A. I do not admit that. Possibly, in particular cases, yes.

Q. You do have a considerable shoe industry here?

A. Yes.

Q. And they ship to Montreal?

A. Yes.

Q. 466 miles?

A. Yes.

Q. And the rate is \$1.06 per 100 lbs.?

A. Yes.

Q. And I understand that a pair of shoes weighs about two pounds; and that would make fifty pairs of shoes per one hundred pounds; and the good ones sell for from \$17 to \$18 per pair?

A. A pair of expensive Hartt shoes, on them it is a negligible charge.

Q. This 21% increase ---

A. That has nothing to do, and I dispute the fact, with a great deal of the material. Moving up a few cents on the freight charges -- it may be that a producer's margin down here -- and if he has to ship

into a market with locally produced goods, he is out of luck. However, on such things as a pair of expensive Hartt shoes, you get an example there where the freight rate is not an important factor.

Q. That works out on shoes to about nine-tenths of a cent per pair, on expensive shoes?

A. Hartt shoes are not kicking.

Q. Yes, Hartt shoes are not kicking. They like the freight rates.

Now, with respect to lumber and potatoes, is it not a fact that the market which was previously enjoyed by the lumber and potato industries has been closed to exports from New Brunswick; and also the market has been restricted, owing to currency restrictions?

A. That is true.

Q. And because of unstable world conditions generally; that is correct, also?

A. Yes. That is why we are so concerned about getting into the domestic market.

Q. And having recently lost those markets -- it may be temporarily, or for a longer time than that -- you would like to get into the central Canadian markets. That is a matter which has arisen relatively recently?

A. It has always been of importance to us, to get into the domestic market.

Q. You have long had a lumber market with the United Kingdom?

A. Yes.

Q. And you still have some, but not as extensively as before?

A. It is pretty hazardous.

Q. I find in Exhibit 52, page 1, the report to the Minister on Industry and Reconstruction, the following:

"Business conditions during 1948 remained relatively good in the Province in spite of shrinkages in markets for exportable commodities."

And those shrinkages are what we have spoken of.

"However, as was anticipated in last year's report, the austerity program in the United Kingdom and restrictions on imports imposed by almost all countries throughout the world, created problems in marketing for our producers, notably in lumber, pulpwood, pitprops, fish and potatoes."

"Lumber production, as was inevitable, showed a decrease . . ."

THE CHAIRMAN: Will you enumerate that again, please?

MR. O'DONNELL: Lumber, pulpwood, pitprops, fish and potatoes.

"Lumber production, as was inevitable, showed a decrease, due principally to curtailment in buying in traditional markets, which emphasizes the necessity for greater processing and dressing facilities in the province. The United Kingdom arranged for the bulk of their requirements in sterling areas, where possible, and by trade agreements in Europe from Finland, Russia, Italy and Yugoslavia, etc. Only token

shipments of lumber were purchased in New Brunswick. The United States market, as was expected, very quickly changed from a buoyant seller's market to a buyer's market, in which only, in the main, our larger operators could participate. The smaller operators either curtailed operations substantially or suspended operations altogether.

"Likewise demand for rough pulp began to fall off in the last quarter of the year, with no renewal of large scale production expected before the late spring of 1949.

"Pitprops also, which were on a very high import priority in the United Kingdom, show evidence of slackening in demand."

And under the heading of "Lumber" it goes on to explain the disturbance in your provincial industry for those reasons, and it gives more details; and that is why you now are particularly interested in the subject of endeavouring to get into central Canada, in a more active way than you have previously been, and in developing this way?

A. Yes. But I would not want to leave the impression that we are not always interested in it. But we are especially interested now, because of that.

Q. The traditional principal market was overseas?

A. Yes; and that is the same, generally, with all our primary products.

Q. And that is the market you catered to during the years, particularly?

A. Yes.

Q. At page 14 of your brief, under the heading of "Pulpwood", you set out some details concerning the shipment of pulpwood. And the last sentence in the third paragraph reads:

"The railways are pricing themselves out of business."

I would like to suggest to you that that might be subject to some qualification; and that it was not quite as definite as that. My information is that shipments of pulpwood in the Atlantic region, on the Canadian National Railways, in tons, from January to June, in 1948, were 984,303 tons; and in 1949, they were 569,653 tons; which shows a decrease of 414,650 tons.

And my suggestion is that that decrease is accounted for by reason of the fact that the mills are not buying pulpwood this year in the manner in which they did last year, and it is not a matter of the railways pricing themselves out of the transportation business at all.

A. I think it is true that the market for pulpwood has slackened; but I do not think that disputes the fact that some of our operators are planning to truck even to distances in Maine; and one of our shippers, in Kent county, is using water transportation around the St. Lawrence and down to Oswego, to get into New York state.

Q. Pulpwood is not being bought in the quantities this year that it was in 1948?

A. That is true.

Q. And during this period, and the postwar period, when pulpwood was in short supply, New Brunswick had

some Quebec market, did it not?

A. Yes.

Q. And those mills up there are not buying in the quantities today that they did in the period I referred to?

A. Yes.

THE CHAIRMAN: Why is that?

MR. O'DONNELL: I assume that demand has fallen off in their own business, and they are using up their . stockpiles. I understand they are using that up at the present time; and they may assume there will be a drop in the price of pulpwood when they will be able to secure their future supplies at more favourable prices.

THE WITNESS: I do not think that disputes the statement.

MR. O'DONNELL: Q. I am trying to get the reason for the drop in the purchasing of pulpwood; and we are in agreement as to the reasons for it, are we not?

A. Yes.

Q. I take it that the inference is -- coming to the specific case set out there, that the last increase in rates, the 21% increase, accounts for the fact that the railways are not transporting as much pulpwood as they did previously. Isn't that the inference or suggestion in your brief?

A. No. And if the rates keep on going up, then, because of the high rates, the shippers and buyers handling pulpwood will be looking to alternative methods of shipping, including shipping by water.

Q. But it was not the 21% increase which caused those changes which you refer to?

A. I think that the increase was a sort of final straw which broke the camel's back and led them to look for alternative methods.

Q. And you say that the operators are planning to use trucks?

A. Yes.

Q. I take it that is a recent thought and that they have not actually used trucks, or if so, not to any considerable extent as yet?

A. This was written before the market for pulpwood softened.

Q. You say they are planning to use trucks?

A. Yes.

Q. How much use have they made as yet of trucks in that particular transportation?

MR. BARRY: They started to, but the market softened so that it is not too much now.

MR. O'DONNELL: Q. None at all, now?

A. That is right. I would say offhand that there has not been any, but I do not know.

Q. My suggestion is that if they entertained the idea of using trucks, it was not due to the 21% increase, but due to the international rate increase?

A. To the State of Maine, that could be true, yes.

Q. New Brunswick to Oswego?

A. That is a general statement, if the rates go too high.

Q. But it has not happened yet?

A. We cannot prove it, because of a drop in the market since this has happened.

Q. New Brunswick to Oswego. That is in New York State?

A. Yes.

Q. And you say that the pulpwood shipments from eastern New Brunswick to Oswego are now moving by water?

A. Yes.

Q. Did they not formerly move by water?

A. Always, to a certain amount.

Q. And during the war there was not any movement by water, to speak of?

A. I do not know.

Q. But the movement is now reverting to what was the old system, and that is that water transportation has now come back since the war, and since the availability of ships. Isn't that all that has happened?

A. The point is that the railways are losing business.

Q. But not by reason of having priced themselves out of the market?

A. I think if the freight rates were low enough, these alternative methods would not be used.

Q. In the old days, when ships were running, the ships always took that trend, and during the war, it was only a temporary business; but now it has gone back to the ships?

A. That is right.

COMMISSIONER ANGUS: Q. By the suggestion that the railways are pricing themselves out of business, do you suggest that they should be protected against themselves, just as if they were to be protected from doing something foolish?

A. If the rates go too high, they will just lose the business.

Q. But could we not rely on their self-interest to avoid that happening?

A. No doubt the railways are aware of this trend just as well as we are. We are simply pointing it out here.

MR. O'DONNELL: Q. Wouldn't you agree that the railways endeavour, in every possible way, to get traffic, particularly profitable traffic?

A. Surely they do; but they might be able to get some of their costs down.

Q. As far as New Brunswick to Oswego is concerned, the transportation of pulpwood always used to go by ships. It is now moving by water, but they couldn't do it during the war when the ships were not available; they did do it before the war when the ships were available?

A. I do not know about that.

Q. I understood that Mr. MacKay was to be here to answer questions regarding long lumber?

MR. BARRY: He was to be here.

MR. O'DONNELL: And with respect to coal, at page 17, it was the intention to have Mr. Tooke and Mr. Clements, was it not?

THE WITNESS: Mr. Tooke is here now.

MR. O'DONNELL: Q. Would you prefer that I question Mr. Tooke concerning coal?

A. I think, on technical questions about coal, he could answer much better than I could.

Q. All right, then, we will let that go.

I think that is all I have to ask you.
Thank you very much.

MR. FRAWLEY: Q. Do you know if the Canadian Pacific Railway has extended its truck ownership policy into New Brunswick?

A. I know that they have trucking lines, but I do not know whether they are in New Brunswick. I do not think so. I do not think they have their trucking lines operating in New Brunswick. My impression is that they have not.

Q. You do not know if they own any of the trucking lines operating in New Brunswick?

A. I do not know, but I do not think they do.

Q. Is there someone who could tell us more definitely about that?

A. The Canadian Pacific men might.

Q. But you do not know of any?

A. No.

MR. COVERT: I think that will be all from Professor Love.

THE CHAIRMAN: We thank you, Professor Love.

MR. COVERT: It has been suggested that, as the City of Moncton has a brief, it might be presented now.

THE CHAIRMAN: Very well.

MR. COVERT: The next submission, Mr. Chairman, is that of the Town Planning Commission for the Metropolitan Area of Greater Moncton. I believe the witness is to be Mr. Frost.

MR. O'DONNELL: We have not had an opportunity to read this brief, Mr. Chairman. It is rather difficult to play by ear as you go along.

S. R. FROST, called

MR. COVERT: Q. Mr. Frost, you are chairman of the Planning and Development Commission?

A. No. Our chairman, Mr. Hudson, is right behind you, there.

Q. Then what is your position?

A. I am Commissioner of the Town Planning Commission, and Chairman of the Committee on Zoning and Development.

Q. You are the Chairman of the Committee on Planning and Development of the Town Planning Committee?

A. That is right.

Q. And I take it that you are the Mr. Frost who has signed the brief on page 2?

A. That is right.

Q. Then would you kindly read your brief to the Commission?

A. The citizens of this area have long realized the difficulties of developing an attractive co-ordinated community because of the proximity of existing railway yards to the city's downtown area and because the main line of the Canadian National Railway bisects the City. The problem, both from the City's and Railway Company's viewpoint and a suggested solution, are outlined in the supplement attached to this brief.

The Moncton Board of Trade has had this problem under review for many years, and were successful in obtaining technical assistance from the Canadian National Railway in the preparation of a plan and cost estimate of lowering the grade of the railway between the Main Street subway and Mountain Road so as to

permit grade separation at St. George Street, Church Street and Victoria Street. The plan, as prepared, indicated that other important streets such as Queen Street, Lutz Street and Robinson Street would either be closed entirely or diverted. This plan has been submitted to the Department of Transport who appointed a panel of three engineers to look into the scheme.

In the meantime a regional Town Planning Commission was appointed by the Councils of the City of Moncton, Counties of Westmorland and Albert, the village of Dieppe and the Town of Sunny Brae. The Planning Commission also tackled the railway problem, but the solution suggested was much more sweeping than that sponsored by the Board of Trade. The Planning Commission suggests that the building of a cut-off to carry the railway's main line across the north end of the City and the relocation of the freight yards to the northwest of the City would provide a much more satisfactory and permanent solution of the difficulty.

While the Town Planning Commission scheme seems at first glance to be quite ambitious, it would appear that it has several points of merit which are outlined in the attached supplement.

The panel of engineers mentioned above held a meeting in the City Hall, Moncton, on March 9, 1949, at which time the report on the Board of Trade's proposal was reviewed. The panel also received the outlined plan as presented by the Town Planning Commission although it was realized that much more information would be required before this plan could be given proper consideration. The panel later submitted an

interim report to the Minister of Transport and the Deputy Minister wrote the City Council of Moncton as of April 23rd as follows:

"This report (of the panel) contains certain recommendations based on the proposals submitted by the local Board of Trade. The Panel also attached to its report a preliminary study of the Town Planning Commission of Moncton which, while only in a formative stage, seemed to merit further study and report before a definite decision could be reached as the proper solution to the entire problem. Accordingly, it has been agreed to defer immediate action on the Panel's report to allow for a more thorough study of the alternative proposal by the Town Planning Commission. In this regard, we requested the management of the Canadian National Railway to nominate one of their engineers to assist that body in a purely advisory capacity to finalize their report and we have been advised that Mr. T. L. Landers, Regional Chief Engineer, Moncton, N. B., will be pleased to act accordingly."

(Page 4225 follows)

Mr. Lessard's letter indicates that the Panel of Engineers is prepared to withhold its judgment until it receives further data on the Town Planning Commission scheme, but also places the responsibility for securing these data and preparing a report on the Town Planning Commission. The Commission has neither the facilities nor the detailed knowledge of railway economics needed to investigate this subject in the manner necessary, if a sound judgment is to be based on the report submitted.

I may further add there, gentlemen, that such a report would not have any official status if prepared by the Town Planning Commission unless it was so authorized.

Under the terms of reference of PC 6603, we submit that your Commission has power under Clause 2F and Clause No. 4 to consider this problem as it affects the operations of the Railway Company and the future development of the City. On various cases arising out of the interpretation of Section 257 of the Canadian Railway Act, the Board of Transport Commissioners has ruled that its powers in general are limited to public safety; and the word "measures" used therein has not been fully elucidated by submitting a test case to the Supreme Court. In general we feel that the Board considers the words "protection" and "safety" to be paramount and the word "convenience" to be of secondary importance.

In referring this matter to your Commission we realize we are submitting a local problem but it is one which, while accentuated in the Moncton area, is

typical of the difficulties that many cities are facing in the matter of established railway yards, tracks and sidings and the difficulty of co-ordinating these with a planned growth of intensive urban development.

I may interpolate there to this effect, that in Moncton it is not exactly a local problem, in that we feel that all the freight traffic moving to the ports, to Halifax at least, and all C.N.R. traffic moving to Saint John, passes through the Moncton yards, and consequently the efficiency and the conveniences established there are a matter of paramount importance to the Maritimes as a whole.

Specifically the Town Planning Commission recommends to the Honorable Commissioners as follows:

1. That the report of Royal Commission on Transportation include specific reference to this problem and a recommendation that an official study be undertaken by a Joint Engineering Investigating Committee such as outlined on Page 7 of the supplement hereto.
2. That the results of such a study and the report embodying the findings of this engineering committee be made available to local and Provincial Governmental authorities, the Railway Company, Board of Transport Commissioners and the Department of Transport at Ottawa.
3. That consideration be given to widening the powers of the Board of Transport Commissioners under the Canadian Railway Act, so that they may be empowered to investigate or to instigate investigations into matters of this kind; or that some

other governmental organization now existing or to be set up shall have power to co-operate with Provincial and Municipal authorities for the study of specific problems of this type, and make recommendations for corrective measures to promote safety and convenience and better living conditions in the areas affected.

That is, gentlemen, the brief. I would like to have your indulgence so that I might briefly outline the main points described in the supplement.

(Supplement to the brief reads as follows):

THE PROBLEM FROM THE CITY'S STANDPOINTI. SMOKE AND DIRT

No estimates are available of the actual yearly cost in money and labor of the smoke and dirt damage experienced by merchants, landlords and householders alike from the constant passage back and forth of railway engines in the city. The roundhouse continually belches smoke and cinders into the air to further aggravate the situation, and the east-bound line from the station thru the heart of the city is up a steep grade with consequent greater smoke emission from the engines using these tracks. Recently the railway has placed two diesel locomotives in shunting service, but this has resulted in only a partial reduction of the trouble.

II. NOISE

The location of the main freight and passenger yards only a few hundred feet from the centre of the city is a constant source of noise. The shunting is interminable and seems to be more at night. While our own citizens are inured to it, our tourists and hotel visitors are not.

III. MAIN LINE RAILWAY AND STREET TRAFFIC INTERSECTIONS

(a) Two (2) obsolete (narrow and steep-grade) street-over-railway bridges, both on heavy street-traffic arteries.

(b) Two (2) excavated, ugly, railway-over-street subways; one with restricted clearance, the other featuring a dangerous oblique-angle side-approach, and both carrying main business street traffic as well as interprovincial and Trans-Canada highway traffic.

1. General

2. Specific

3. Details

4. Conclusions

5. Recommendations

6. References

7. Appendices

8. Index

9. Tables

10. Figures

11. Notes

12. Comments

13. Summary

14. Conclusion

15. References

16. Appendices

17. Index

18. Tables

19. Figures

20. Notes

21. Comments

22. Summary

23. Conclusion

24. References

25. Appendices

26. Index

27. Tables

28. Figures

29. Notes

30. Comments

(c) Ten (10) dangerous level-grade crossings (eight in the heart of the city) several of which are frequently blocked by intermittent shunting and by main-line freight and passenger train operations.

(d) Eleven (11) existing streets dead-ended at the railway tracks causing interruption in, and detouring of the normal traffic flow and in some cases restricting the city's growth.

(memo: In the above summary no reference is made to the many level-grade crossings of industrial tracks.)

IV. MAIN LINE RAILWAY RIGHT OF WAY AN UNCROSSABLE BARRIER BETWEEN SECTIONS OF THE CITY AND IN THE SUBURBS

In the northeast section of the city the main line effectively closes off communications between 2 built up sections of the city and also in 2 growing suburban areas. A parallel situation exists in the northwest section of the city, and also in the south.

V. ASSESSMENT

Although the value of the railways investment within the city limits is approximately \$10,000,000, the taxation yield in 1947 was only \$3,403.49. The railway occupies 400 or more acres of the city's 3.27 square miles or approximately 1/5 of the city's area. Its \$10,000,000 valuation is equal to about 1/3 of the assessed valuation of the City's tax paying properties, - its contribution to the city's 1947 assessment roll was just over 3/1000 of the total figure. While municipal revenue from the railway property is largely non-existent, there is a strong feeling that the Railway Company has a moral obligation to pay its share of the city's cost of operation.

THE PROBLEM FROM THE RAILWAY STANDPOINT

I. MILEAGE

The heavy traffic line is the Halifax-Montreal line which is detoured southward into the city and out again for an increase of approximately two miles between Buctouche Junction and Odium Junction.

II ELEVATIONS

Just as in Item I above, through traffic must climb down into the city and climb up out again, a matter of 50 feet, more or less.

III LEVEL CROSSINGS

The level crossing danger is present at twelve locations in the area (eight in the heart of the city) with consequent reduction in speed for safety.

IV. SAFETY INSTALLATIONS AND GRADE SEPARATION STRUCTURES

These represent an annual charge for operation and upkeep.

V. YARDS

The Sorting and Storage facilities of the Moncton terminals are distributed between three separate localities - Main Yard, Marsh Yard and Franklin Yard. This separation is not the outcome of an overall plan but is the end-result of piecemeal building in the most easily available place at the time additional facilities became needed. Compared with a modern, well designed railway yard, the present facilities can only be considered obsolete. There are many examples as for instance the not uncommon occurrence of freight trains waiting on the main line under block signal, until tracks can be cleared of shunting activities.

APPENDIX

The first of these is the well-known fact that the number of points in a set is not necessarily the same as the number of points in its closure. For example, the set of rational numbers has the same cardinality as the set of real numbers, yet the closure of the rational numbers is the set of real numbers, which has a strictly greater cardinality.

THEOREM 1

Let X be a topological space. Then the closure of a subset A of X is the smallest closed set containing A . In other words, if C is any closed set such that $A \subseteq C$, then $\bar{A} \subseteq C$.

THEOREM 2

Let X be a topological space. Then the interior of a subset A of X is the largest open set contained in A . In other words, if U is any open set such that $U \subseteq A$, then $U \subseteq \text{int}(A)$.

It is easy to see that the interior of the closure of a set is contained in the set itself. That is, $\text{int}(\bar{A}) \subseteq A$.

Conversely, it is also true that the closure of the interior of a set is contained in the set itself. That is, $\bar{\text{int}(A)} \subseteq A$.

THEOREM 3

Let X be a topological space. Then the boundary of a subset A of X is the set of points in X which are neither in the interior of A nor in the interior of the complement of A . In other words, $\partial A = \bar{A} \cap \overline{X \setminus A}$.

It is easy to see that the boundary of a set is closed. That is, ∂A is a closed set.

Moreover, the boundary of a set is disjoint from the interior of the set. That is, $\partial A \cap \text{int}(A) = \emptyset$.

Finally, the boundary of a set is disjoint from the interior of the complement of the set. That is, $\partial A \cap \text{int}(X \setminus A) = \emptyset$.

These three properties characterize the boundary of a set. That is, if B is a subset of X such that B is closed, $B \cap \text{int}(A) = \emptyset$, and $B \cap \text{int}(X \setminus A) = \emptyset$, then $B \subseteq \partial A$.

It is also true that the boundary of a set is the closure of the set minus its interior. That is, $\partial A = \bar{A} \setminus \text{int}(A)$.

Similarly, the boundary of a set is the closure of the complement of the set minus the interior of the complement. That is, $\partial A = \overline{X \setminus A} \setminus \text{int}(X \setminus A)$.

These two properties show that the boundary of a set is the set of points in X which are limit points of both the set and its complement.

It is also true that the boundary of a set is the set of points in X which are limit points of the set. That is, $\partial A \subseteq \bar{A}$.

Similarly, the boundary of a set is the set of points in X which are limit points of the complement of the set. That is, $\partial A \subseteq \overline{X \setminus A}$.

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These two properties show that the boundary of a set is the set of points in X which are limit points of both the set and its complement.

It is also true that the boundary of a set is the set of points in X which are limit points of the set. That is, $\partial A \subseteq \bar{A}$.

OUTLINE OF SOLUTION SUGGESTED BY TOWN PLANNING COMMISSION

(a) Build a 5.0 mile cut-off to main line standards across the northern side of the city as shown on the accompanying map with provision for grade separations at strategic points so that future growth of the city would not be hampered.

(b) Clear and grade an area for large yards on both sides of the main line to the West of the city, as shown.

(c) Gradually remove the existing yard trackage to the new location.

(d) Erect the proposed new passenger station on the new location.

(e) Abandon and remove the present main line trackage, subways and bridges between the new station location and Humphreys. The present line from Humphreys to Buctouche Junction would remain as an industrial spur.

N.B. The Shops, the Franklin Yard, and practically all industrial sidings are left intact.

EFFECT OF THE SUGGESTED SOLUTION ON THE PROBLEMS

(FROM THE CITY'S STANDPOINT)

I. SMOKE AND DIRT

These would be practically eliminated. The railway lines (with the exception of the industrial tracks) would be moved to remote locations where this smoke would not materially affect anybody.

II. NOISE

The same as Item I.

III. MAIN LINE RAILWAY AND STREET TRAFFIC INTERSECTIONS

(a) Both bridges would be removed.

(b) Both subways would be eliminated.

Abandonment of the Main and Foundry street subway would permit not only improved traffic flow but a complete re-orientation of this section which is the business heart of the city.

(c) All ten level-grade crossings would be eliminated.

(d) All eleven dead-end streets could now be extended to fulfill their destiny of serving the citizens with a net work of connected thoroughfares.

IV. MAIN LINE RAILWAY RIGHT OF WAY AN UNCROSSABLE BARRIER

Removal of the yards and the main line trackage will permit a complete urban development and the various isolated segments of the city could then be reabsorbed into the general street pattern.

V. ASSESSMENTS

The implementation of the suggested solution would release to urban usage (and city assessment) much valuable land capable of producing a very considerable improvement in municipal revenue and incidentally would relieve the railway company of a considerable portion of their present moral obligation in respect of city taxes.

EFFECT OF THE SUGGESTED SOLUTION ON THE PROBLEM

(FROM THE RAILWAY'S STANDPOINT)

1. MILEAGE

The suggested five mile cut-off will reduce the east-north through traffic mileage by approximately two miles.

II. ELEVATIONS

Without an engineering survey it is difficult to say definitely what grades could be established on the cut-off. Present indications are that the gain in operating efficiency would be substantial.

III. LEVEL CROSSINGS

All twelve of the level-grade crossings now in existence would be eliminated.

IV. SAFETY INSTALLATIONS AND GRADE SEPARATION STRUCTURES

The annual cost of operation and maintenance of the present safety installations at level grade crossings would be eliminated. The two overhead and two subway structures would be removed and their annual upkeep would no longer be a charge against railway operation.

V. YARDS

Evaluation of the annual gain to the railway through the use of a modern one-location yard, replacing the present piece-meal facilities spread over three locations, is a specialists job. There can be no doubt that the savings should be substantial.

OFFICIAL EVALUATION OF THE PLAN

We suggest the immediate appointment of a Joint Engineering Investigation Committee to report the costs of and the operational savings to be derived from the solution proposed, with power to similarly evaluate other suggested solutions of apparent merit; that the committee be composed of four engineers, one each from the city of Moncton, the Canadian National Railways, the Board of Transport Commissioners and the Department of Transport.

With reference to capital costs, we recognize that

an exact estimate can only be prepared from time consuming detailed engineering plans. Because of the urgency of the problem we feel that the report need not await such final figures. Close approximations of capital investment would be sufficiently accurate and much time would be saved in this manner.

The Committee's terms of reference should include specific instructions to evaluate such related items as:

- (a) the indicated annual savings in terminal operation costs by the provision of one adequate freight sorting and storage yard with modern facilities.
- (b) the annual loss or gain to the railway resulting from changed mileages and grades.
- (c) determination of that portion of the cost of the programme properly chargeable to grade crossing elimination work so that a proper division of such costs might be assessed against the proper authority.
- (d) the annual saving through the elimination of upkeep and operation costs of present safety installations and grade-separation structures.
- (e) the acreage and street frontages of C.N.R. land to be released for urban or suburban usage.
- (f) the general increase in efficiency resulting from the elimination of main line operation through city traffic.
- (g) an appraisal of the portion of the cost of the programme which would be represented by the value of necessary replacements within the next 5 or 10 years, should the new development not materialize.

This should apply to both structures and equipment as well as material.

(h) an appraisal of the lesser potential assessment value of the new land to be occupied by the railway after completion of the proposed works, considered in relation to the possible demand for a re-consideration of the present assessment.

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THE WITNESS: Item No. I of the Supplement deals with the problem from the City's standpoint, and it enumerates smoke and dirt from the railways, which, as I say, pass through the centre of the city with the yard adjacent, and the noise of shunting in the yards. I may say that the City Council of Moncton now has two petitions before it, one from the hotel-keepers in the area and one from the residents, asking that the railway cease night shunting if possible. As a matter of fact, I do not see how they can; the railway has to carry on the operations, and, because the yard happens to be placed almost within the centre of the downtown area, I do not think anything much can be done to alleviate the difficulty.

Then we have No. III, the main line railway and street traffic intersections described, with two overhead railway bridges rather obsolete in type, two subways, ten level crossings eight of which are right in the heart of the city, and finally eleven existing streets dead-ended by reason of railway lines interrupting their alignment.

In addition to that No. IV describes that the main line of the Canadian National Railway as it now exists, going down and out of the city -- detouring into the city, rather -- sets up a barrier between the growth of certain sections of the city and certain sections of the suburbs.

Then finally, gentlemen, there is our problem from the city's standpoint of a reference to the assessment. In our city the railway, which we value immensely as a source of employment, nevertheless occupies about 400 acres or about a fifth of the

city's area, and, while the evaluation of the properties of the railway is roughly \$10,000,000, the taxation is only a matter of some \$3,000.

The problem from the railway's point of view is outlined in the next part of the Supplement, and we state that the main line from Halifax to Montreal is detoured at present southward into the City of Moncton and out again for an increase of approximately two miles longer than it need be.

In the case of elevations, the railway comes into Moncton, drops down nearly to tide level, and has to climb up again.

The fact that there are so many level crossings in the city hinders the operations of the railway. Speed has to be reduced for safety.

The safety installations and grade separation structures represent an annual charge for operation and upkeep.

Then the question of the yards:

"The Sorting and Storage facilities of the Moncton terminals are distributed between three separate localities, - Main Yard, Marsh Yard and Franklin Yard. This separation is not the outcome of an overall plan but is the end-result of piecemeal building in the most easily available place at the time additional facilities became needed. Compared with a modern, well designed railway yard, the present facilities can only be considered obsolete. There are many examples as for instance the not uncommon occurrence of freight

trains waiting on the main line under block signal, until tracks can be cleared of shunting activities."

The outline of the solution as proposed by the Town Planning Commission, is, briefly, that a cut-off line 5 miles in length to main line standards be built across the northern side of the city; that provision should be made for clearing and grading a large area for a modern yard to the west and northwest of the city; the gradual removal of the yard facilities as it becomes possible to the new location. When and as a new passenger station is required -- it has been mooted for many years -- the new passenger station should be built on a new location. The abandonment of the main line then would be possible through the city, and the large area of trackage now used by the city of some 400 acres would be available for urban development at considerable revenue to the railways. The shops, the Franklin Yard, and practically all industrial sidings are left intact under this plan.

The effect of the suggested solution of the problems from the city's standpoint are set out here. First, there is the elimination of smoke and dirt, then the elimination of noise, the elimination of bridges, subways and ten level crossings within the city, and the extension of the 11 dead-end streets as a network of connected thoroughfares.

The removal of the main line through the city would eliminate the barrier which now exists between the two halves of the city and the suburbs.

So far as assessments are concerned, the

implementation of the suggested solution would release to urban usage and city assessment much valuable land capable of producing a very considerable improvement in municipal revenue and incidentally would relieve the railway company of a considerable portion of their present moral obligation in respect to city taxes.

The effect of the solution on the railway would be that the mileage of the main line would be reduced by approximately 2 miles. Without an engineering survey it is difficult to say definitely what grades could be established on the cut-off, but present indications are that the gain in operating efficiency would be substantial.

The elimination of level crossings and the elimination of safety installations and grade separation structures would inure to the benefit of the railway.

Evaluation of the annual gain to the railway through the use of a modern one-location yard, replacing the present piece-meal facilities spread over three locations, is a specialist's job. There can be no doubt that the savings should be substantial.

Our final summation is, gentlemen, how to evaluate this plan so that it could be acceptable. We feel, as I said earlier, that the Town Planning Commission itself is not the proper party to evaluate such a plan, or any other plan, because we lack knowledge of railway economics, and we have neither the money nor the staff; but we do suggest the appointment of a joint engineering investigation committee, with the expense shared jointly by the City of Moncton, the Canadian National Railways, the Board of Transport

Commissioners and the Department of Transport, and we go so far as to give this committee some specific terms of reference which we think are pertinent to the situation.

Now, gentlemen, this is a matter that is pretty deeply ingrained in us who live at Moncton. You may before you leave the Maritimes have an opportunity to see part of our problem. We would submit this brief and ask for your respectful consideration.

If there are any questions, Mr. Chairman, anyone would like to ask, I would be glad to answer them.

THE CHAIRMAN: Mr. Covert, have you any questions?

MR. COVERT: Yes, Mr. Chairman. First, I think, Mr. Chairman, we should have marked the photographs and the map which are attached to the brief as exhibits.

THE CHAIRMAN: Why not make one exhibit of the whole thing

MR. COVERT: Of the whole brief?

THE CHAIRMAN: As we did yesterday.

MR. COVERT: Then the whole brief will be Exhibit 53.

EXHIBIT 53: Brief of Town Planning Commission for the Metropolitan Area of Greater Moncton.

EXAMINED BY MR. COVERT:

Q. First, Mr. Frost, have you a copy of the plan before you?

A. Yes, sir.

Q. I would just like to make sure that I understand.

MR. O'DONNELL: I might say we have no copy of the plan or any photographs that you refer to; in fact, we had no brief until a few minutes ago.

MR. COVERT: Q. On the plan attached to and forming part of Exhibit 53, the present railway lines, have those --

A. They are shown in purple.

Q. Starting at the left-hand side of the plan and going along up to the Petitcodiac River; is that correct ?

A. Yes. The intent is to leave the line from Saint John right through the city of Moncton intact. That provides our railway sidings necessary for the development of the city. The line from Montreal, north of that, coming in from Berry Mills, is also left absolutely intact, and it --

Q. That comes right down and joins the line from Saint John?

A. Right down into the shops.

Q. And also into the shops in the centre of Moncton?

A. That is right.

Q. There is no change there?

A. That is right. The end of that line, however, is eventually to be dead-ended under the scheme.

Q. And that would be dead-ended at the new station?

A. At the passenger station.

Q. Which is the little block --

A. Which would be just shortly north of St. George Street.

Q. And marked surrounded by red?

A. Yes.

Q. All these existing tracks that are shown on the

plan marked in purple in the centre of the city, are they left intact?

A. Under the scheme that would be eventually eliminated.

Q. Perhaps you misunderstand me; the ones marked in purple?

A. Oh, I beg your pardon; I thought you said the yellow. The purple represents --

Q. That is where the shops are?

A. Yes. Those are industrial tracks in the city that are left there indefinitely as far as we are concerned.

Q. So what you are really eliminating in the city --

A. Is the yellow.

Q. -- is the yellow, yes. And the yellow part down close to the Petitcodiac River, those are the existing yards?

A. That is the present Marsh Yard and main yard. Those are the present yards, which are removed to the location in the northwest part of the map.

Q. West of Odlum Junction?

A. That is right. That wide yellow strip represents the existing yard.

Q. Then the new 5-mile line to which you refer in your brief, that is from Odlum to Buctouche?

A. That is right. That is the curved line that goes across the top of the map.

Q. That would mean that trains coming in from Halifax would come to Buctouche Junction, go over the new line, and then what? Back into the station?

A. No; if they were freight trains they would go direct to the yard.

Q. Direct to Odlum Junction?

A. And thence to Montreal.

Q. Freight trains; passenger trains would come in.

A. Passenger trains would Y and either head in or back in to the new station, with a comparatively short distance between the Y and the station.

Q. But they would either have to back in or back out?

A. That is right, that is right. It is what we call a stub-end station, and it is customary nowadays, -- well, Montreal is a place in point, and Washington; many cities have that type of station.

Q. And the same would apply to the trains from Saint John; the freight trains would turn at McKinnon and go out to Odlum Junction?

A. Yes. The reason for that angling line is, that is now existent, and eventually probably under this plan a diagonal line would save further mileage, but that angling line is in existence now, and it is a question of economies that we are trying to effect.

Q. In other words, what you are suggesting is that the purple line shown to the left and bottom of the plan would go direct towards the yards at Odlum Junction?

A. Yes, that is it.

Q. Now, Mr. Frost, I suppose you have not any estimates at all as to what this would cost?

A. No. The main thing that we are asking is for the construction of five miles of double-track line over

terrain which is not too difficult. This area is not well urbanized at the moment, but very soon, gentlemen, at the rate cities grow nowadays, we may find that it is urbanized. A plan was made by the Canadian National Railways about twenty-five years ago to cut off across the City of Moncton, and before the plan could be implemented the city grew out and filled up the space so that the railway could not secure the land at a reasonable price. There is the element of timing. We have the time now to do what this map shows. If it is not done in probably five or ten years I am afraid that the opportunity will be lost.

Q. You think that you have placed it now so that in five or ten years, or perhaps 20 years, the problem will not raise its head again?

A. No; the idea is this: I am very pleased to have that question, because the brief did not bring it out. There are opportunities on this cut-off line, and provision should be made so that adequate underpasses or grade separations are provided in the line as it is built, so that if the city should grow out beyond that -- that is problematical, but if they should grow there will be space for urban and suburban traffic through the cut-off; it will not be a repetition of what we have now -- under no circumstances.

Q. I wanted to ask you also, Mr. Frost, whether or not the city grew up around the line, which came first?

A. Originally the city as such was known as the Bend, and if you look at that map you will see the bend in the river, and that is where the City of Moncton started. It started, if I may tell this Court,

by a group of Dutchmen who were coming up from Pennsylvania about 1770 and got seasick and had to go ashore, so they came ashore there.

Q. That is near Dieppe on the map?

A. That was where the city started.

Q. That is near Dieppe on the map?

A. That is right at the top end of Hall's Creek, where the shipbuilding took place for many years. The railway came in, and naturally at that time they wanted to reach the traffic that was existent, and at that time there was no city. Up to 30 or 40 years ago there was no problem, because the city was half a mile away from the main yard, but as the main yard stayed in the same place and expanded, and the city grew the only way it could grow because of the marshes on the east, it grew westward, until we have our large department stores and our best retail area, and one of the most important retail areas in the Maritimes, within a stone's throw of one of our largest railway yards.

Q. What I wanted to ask you was whether or not it was due to lack of planning on the part of the railway or on the part of the city?

A. I think it is one of those things that just happened.

Q. Because you seem to suggest at the bottom of page 3 --

A. No blame to the railway company. They were there, but the city grew and they did not get out of the way. As a matter of fact, as I say in the brief, the city is a problem to the railway just as much

as the railway is a problem to the city. It is a joint problem.

Q. It is a joint problem, I suppose; and what I wanted to ask you was what you thought as to the apportionment of cost, whether the provisions of sections 259 and 260 of the Railway Act would apply; do you think that the cost should be apportioned as --

A. No, I think this is a different case. There will be operating economies enure to the railway company in this thing, we think. There also will be some very valuable urban land which the railway will be able to dispose of. Frontage facing on the main street of Moncton is not cheap land, it is expensive land, and there will be a lot of it available. The presently existing railway yards can be made very useful, and if the city grows can be easily sold, so that there will be a revenue to the railway from this movement. In other words, the idea is to take cheap land for railway yards, and sell the expensive land, and consequently the provisions of the Act there do not exactly apply, sir, as I see it.

Q. Then do they own the necessary land out at Odium Junction now?

A. Oh, no; at the present time that is just forest, and poor forest at that.

Q. Then what you are saying is that it may be a straight business proposition?

A. There is some more business to it than --

Q. You can sell the idea to the railways; if you need any help from anybody --

(Page 4255 follows)

MR. G. W. HUDSON: If I may interject, I think the point is --

MR. COVERT: Perhaps you would give us your name in full.

MR. HUDSON: George W. Hudson.

MR. COVERT: And you are the President --

MR. HUDSON: I am Chairman of the Town Planning Commission.

THE CHAIRMAN: We had better hear this gentleman after the present witness.

MR. COVERT: We will call you later.

THE WITNESS: We have sort of lost the trend. I think the problem is one that does not actually come under the Railway Act, and that is why the Town Planning Commission have asked for a group to evaluate the economics of this thing as well as the actual capital cost. When that is done we feel that there is a reasonable hope that the thing will look attractive enough so that between the government, the municipality and the railway company some way will be found to implement the plan.

MR. COVERT: Q. What I want to suggest to you, Mr. Frost, is that there might be similar cases all over Canada, and if you could sell a proposal like this to the railway, if it is for their benefit, both from the point of view of efficiency, and that it will not cost them much because they will be able to sell some valuable land, and so on, it would seem to me that negotiations with the railway would be better than passing legislation or recommending legislation?

A That is it.

Q Is that not feasible?

A I think you are right. I think the position of the Commission in this case may be quite important in that it may set a pattern for investigations of this kind in other cities.

Q I gather from your evidence that one of the main purposes of the brief was to show that it would improve the efficiency of the railway. You are looking at it from that point of view as well?

A We cannot eat our cake and have it too. We cannot do everything, and the railway has to be considered, particularly in Moncton, because they are very important. They are our largest employer, and we have to work with the railway.

COMMISSIONER INNIS: Q. You have made no appeal to the Board?

A Not to the Board of Transport Commissioners, only to the Department of Transport itself, and they appointed three engineers, one of whom was Mr. Kilburn of the Board of Transport Commissioners, and one was Mr. Winters of the Department of Reconstruction and Supply, and the third was Mr. Landers of the Canadian National Railways. They have looked the plan over, and they say it has some merit, but they have put the onus of investigating the plan back on the Town Planning Commission and, as I say in my brief, we have neither the funds, the staff nor the resources to do that. This requires an economic study as well as a capital cost study.

Q Since it involves grade separations it would seem that you might very reasonably approach the Board?

A We feel, sir, with due deference to your judgment, that it involves more than the Board is customarily concerned with. They are concerned generally with the elimination of one or two level crossings, and sometimes possibly three, in a certain locality, but this is a sweeping plan that involves the elimination of ten at one fell swoop, not by grade separation, but by moving the main line of the railway. That is something that they have been very loath to give an opinion on, because they hesitate to say, and that is why I say we want to set a little different pattern. It may be within the scope of the Board, but it would have to be put there by Act of Parliament.

Q But you have approached the Board?

A Oh, the Board is conversant with the whole problem.

THE CHAIRMAN: Q. Of course, you understand that our function here would be confined to making a recommendation?

A Yes, sir.

Q Your problem is a local one and, as Mr. Covert says, there may be a hundred other local problems all over Canada.

A That is right.

Q What you want us to recommend is that your idea of investigation be adopted?

A Yes.

Q That is to say, the set-up that you recommend on page 7?

A I am just saying that is our idea.

Q You want certain appointments to be made, and a joint engineering investigating committee appointed by different bodies, the railway, the municipality, the Board of Transport Commissioners, and the Department of Transport. You ask us to recommend that that be done.

A Or some such.

Q Something equal. I do not know how we could find something to substitute for it, but you want us to recommend something, do you not?

A That is our hope.

Q And our recommendation will have to go to the government of Canada. You understand that?

A Yes.

Q And the government then takes steps to set up such a committee as you ask for, or something which will be just as good. That is as far as we can go in any event, and we will certainly give it our best consideration. I think we understand you. Are there any further questions?

MR. O'DONNELL: I have no questions.

MR. COVERT: Then we will come back to the case of the Province of New Brunswick. Mr. Sinclair intimated to me he wished to ask Mr. Barry a few questions.

THE CHAIRMAN: Mr. Barry?

MR. COVERT: Yes, on the question of the truck policy.

MR. FRAWLEY: I think perhaps before that I should put into the record two or three paragraphs from Exhibit 47, which is the appendices to Mr. Matheson's brief. I do that, Mr. Chairman, because I asked the

witness, Love, a question about railway ownership of trucking operations, and I was told that so far as he, Mr. Love, or Mr. Barry knew there were no railway trucking operations. I thought I should put into the record --

THE CHAIRMAN: I think your question is directed towards the Canadian Pacific.

MR. FRAWLEY: Quite right. I looked towards Mr. Sinclair, and Mr. Sinclair, as was his right and privilege, remained silent. I think I should now put into the record these few paragraphs from Mr. Matheson's brief.

"Certain ancillary truck operations are provided by the Dominion Atlantic, the Canadian Pacific, and Canadian National Railways to supplement freight and express services in the Maritimes.

The Dominion Atlantic Railway Company operate trucks on the following runs in conjunction with its rail services; Falmouth, N.S. to Ellerhouse, N.S. including town of Windsor; Kentville to Mount Denson, including the towns of Wolfville and Hantsport; Kentville to Middleton, Kingsport and Weston; Digby to Lawrencetown and Meteghan; Meteghan to Yarmouth; - resulting in a route mileage of 218.

Highway freight services are operated by the Canadian Pacific Railway Company from Kilburn, N.B., to Woodstock, N.B., and Grand Falls, N.B., to Andover, N.B., contributing a total of approximately 112 route miles.

The Canadian National Railways operate freight and express truck services from Moncton to

Richibucto, a route of 53 miles and express truck service only from Sydney to Glace Bay and from Sydney to New Waterford, N.S., a total of approximately 28 route miles; and an l.c.l. freight service between Yarmouth, N.S., and Shelburne, N.S., - 76 route miles."

All I want to say, having put that on the record, whether or not that is a purely supplementary service or a competitive service, I think perhaps it is for the railways to make a statement. I think that both Mr. Sinclair and Mr. O'Donnell should put into the record now, or at a more convenient time, what the facts are with regard to these truck operations in the Maritime Provinces, in view of the fact that we had that information in western Canada.

MR. SINCLAIR: It was for that reason, and not that a glance from Mr. Frawley keeps me silent, that I was waiting for an appropriate time to give the Commission some information that would be helpful. I may say I was rather surprised that Mr. Frawley did not put the question in view of the information in volume 2 of this very excellent brief filed by Mr. Rand Matheson, as it has been in his hands for some days. The intimation was that the policy of the government of New Brunswick was somewhat similar to the view expressed by Mr. Frawley as to the harmful effects of the railways being in the trucking business, and it was for that reason that I thought I should ask Mr. Barry if he could tell the Commission whether it was not a fact that the Canadian Pacific, through the cartage division of the Canadian Pacific Express

Company had maintained trucking services in New Brunswick, as well as in Nova Scotia, for many years, and whether it was not a fact that that policy of the Canadian Pacific of supplementing, coordinating and integrating through highway services in their handling of l.c.l. merchandise was not a policy that was of benefit to the shippers and consumers of the Province of New Brunswick, and that they welcome the Canadian Pacific on the highways of New Brunswick, with the usual licence fees.

MR. BARRY: I answer the question, Mr. Chairman and gentlemen, by saying that the mere fact of their being there is proof of the fact that the government of New Brunswick approves it through the proper authorities. I do not speak with regard to any particular one, but that has been examined and handled by competent authorities of the provincial government, and on behalf of the government they have approved these operations.

Mr. Frawley's question as directed to me concerning ownership of trucking lines originally, I took to mean whether or not the Canadian Pacific under another name owned a great many trucking lines in New Brunswick, and I said to my knowledge they did not, but with regard to these operations they are approved by agencies of the government, and we are not opposed to them.

THE CHAIRMAN: You have no objection to what is going on?

MR. BARRY: No, Mr. Chairman, because it is under competent authority, and if both railways think it increases their efficiency, and the motor carrier board approves of it, we certainly approve of it.

THE CHAIRMAN: You have no complaint to make about it?

MR. BARRY: No, Mr. Chairman.

THE CHAIRMAN: All right; what is next?

MR. COVERT: We will continue with the case for the Province of New Brunswick. Mr. Barry has some further witnesses. I believe there are five, and perhaps I might list them. On coal Mr. A. Tooke is available; on potatoes, Mr. Cunningham; on pulpwood, Mr. Estey; on the question of highways the Deputy Minister, Mr. Barbour, is here, and for railway crossings Mr. Lawson or Mr. Barbour.

THE CHAIRMAN: I noticed that there was no reference in the New Brunswick brief to the fishing industry. We have had some evidence about it this morning indicating that it is of considerable size. There is nothing to be said about the transportation of that product?

MR. BARRY: There may be a witness with regard to that matter because there have been some questions submitted to us.

THE CHAIRMAN: You do not raise any question yourself?

MR. BARRY: Not in the brief.

THE CHAIRMAN: Which I suppose indicates you have no grievance in that respect, no complaint?

MR. BARRY: I would rather not answer the question as flatly as that until half-past two, but that is a fair impression, what you have said.

THE CHAIRMAN: All right.

MR. BARRY: I will call Mr. Tooke.

THE CHAIRMAN: He is to speak for what?

MR. BARRY: Coal, Mr. Chairman.

ALEC TOOKE, Called

EXAMINED by MR. BARRY:

Q Mr. Tooke, where do you reside?

A Minto.

Q What is your occupation?

A Manager of Mines, Miramichi Lumber Company.

THE CHAIRMAN: What?

MR. BARRY: Miramichi Lumber Company, Manager of Mines.

THE WITNESS: The coal mine division of the lumber company.

MR. BARRY: Q. You have read that part of the provincial government brief with respect to coal and, in fact, you had a good deal to do with the preparation of it?

A Yes.

Q Would you explain to the Commission the first recommendation with regard to regrouping of freight rates from the field and its effect upon the industry? It begins at page 17, and the recommendations as to regrouping are on page 20.

A In what way did you mean?

Q The recommendation is for a regrouping of freight rates from the field in order to get the product into the New Brunswick market on terms comparable with other coal, considering the type of coal produced at Minto as compared with other types.

THE CHAIRMAN: That is page 20, is it?

MR. BARRY: That is the recommendation at page 20 of the brief.

THE WITNESS: Mr. Chairman, I am speaking solely as secretary-treasurer of the mining group in Minto and not largely on my own company's behalf.

MR. BARRY: You are an official of the mining group?

A Yes.

Q You are not appearing here for or on behalf of your employer at all?

A No, as secretary-treasurer of the New Brunswick Coal Producers Association. We on the C.N.R. end of it have not been really up against it as far as this new freight rate is concerned, but those in the south Minto area, which is all C.P.R., are directly affected. Take, for instance, from the south Minto field down into the Grand Lake area, into the Grand Lake power plant, in other words. They had a freight rate of 30 cents per ton prior to the increase of 20 cents per ton. That is a short haul of approximately three miles, and they felt that rate should have been at least the 21 per cent instead of 20 cents per ton.

Q The flat increase hurt those operators?

A That is right, with the result that we, on our south Minto operation, now truck our coal over to the C.N.R. track or spur line which we more or less run. We find that we can do that cheaper than we can pay the additional rate to Chipman, which was a distance of sixteen miles from Minto to Chipman, a transfer point

there to the C.N. That rate also increased from 30 cents to 50 cents a ton, but we in our case can truck our coal over for 20 cents a ton into the C.N.R. area.

Q Would you look at the map which is filed - which is attached to the brief.

MR. COVERT: Exhibit 50.

Q.
MR. BARRY: Will you explain with reference to places on the map exactly what the situation is?

A The red line from Minto to Hardwood Ridge is our C.N.R. line.

Q That is a blue line on this map?

A Not on this one, This is taking in the C.N. I will explain it as near as I can. From Hardwood Ridge into that first point shown there, half of the 'Y, in other words, is the spur line that is put in by the C.N. and which is kept up by them. In other words, we look after the locomotive, supply the locomotive for hauling the coal out to Hardwood Ridge. The other area from that point in around the mine, whatever track you see in there into Minto, is practically kept up by us except for some half mile or three-quarters of a mile from Minto up that first part of the hill, which is C.P.R. trackage. We then go from Minto on the blue line towards Fredericton out to that first intersection which is what we call the scale.

Q That is down to the lower lefthand corner of the map?

A The lefthand corner towards Fredericton. That track on this map is not coloured, is it, the one going to the south Minto area? It is not coloured on this map.

MR. O'DONNELL: The only one is the C.P.R.

THE WITNESS: That is C.P.R. track, and this goes clean down to the New Brunswick electric power plant down at Grand Lake. In that area there is marked W. B. Evans, Kelly, Avon Coal. Those are the mines which are now operating and which have a 50 cent charge from their operation down to the plant, probably in some cases only a distance of one mile.

MR. BARRY: Q. The 50 cents is from the south Minto area?

A From the south Minto area, the Avon Coal Company to the New Brunswick power plant, where they take the coal down there, and I believe they weigh it there. It does not have to go back to the scale. That is a distance of practically one mile at a 50 cent rate. I believe now most of the coal moved from this area into the power plant is moved by truck.

Q What is the solution of that difference?

A Well, most of them feel down there if they could get the other rate reestablished that they would go back to train haul.

Q And what about the spur line? Is there a suggestion about improving its standard to a branch line?

A Yes. We believe that if it was extended to a branch line, and had a station stop in Minto, that we would get our coal shipped directly from that line into points north, that is, Chatham, Bathurst, Dalhousie, and up that way.

Q There is a 20 cents difference in freight between shipping from one area as compared to the other area?

A That is right. We as a company have a 20 cent better rate than other operators in the field. In fact, we ship solely C.N.R., and the other operators there cannot do so.

MR. O'DONNELL: Q. That is by reason of your private spur?

A That is right.

MR. BARRY: Q. You would make the spur a branch line and enable others to get the same rate from the area?

A If possible; at least, we are not against that.

Q And it is all one mining area?

A That is right.

Q Now, the regrouping of the freight rates from the field --

A That is taking in Nova Scotia?

Q Yes.

A The thing we are applying for is more or less a subvention to enable us to put our grade of coal into points north on a much more competitive basis than we have at present.

Q Would you explain what you mean by that to the Commission? I do not want to put words in your mouth, but because of the type of coal produced there compared to some types in Nova Scotia --

A That is right. Our grade of coal is only 85 per cent - some people do not tell us it is that good - as good as Sydney, in other words, and our main competitor at present is Nova Scotia coal. We feel if we had a subvention within the province that would enable

us to put our coal in 20 per cent cheaper, into these places, than we do now, we would be more or less getting the business every year instead of being down usually in the summer time to part-time.

Q The reason for that being that you must be able to sell your coal more cheaply than Nova Scotia coal?

A That is right.

Q In order that the consumer will get as much heat for a certain amount of money?

A That is right.

Q As he can get from the Nova Scotia coal for the same amount?

A That is right. In other words, we have to make our price much more attractive in order to sell it.

Q And with that freight rate compared to the Nova Scotia rate you cannot do it?

A No.

Q How much difference would there be to accomplish that, to put you on an even keel with Nova Scotia competitively?

A Twenty per cent of a reduction.

Q Twenty per cent reduction?

A Yes.

Q Would that give you a preference in the market or just allow you to compete competitively with them?

A Just allow us to compete competitively.

Q At the present time it would pay some consumers to buy Nova Scotia coal in preference to your own?

A That is right.

MR. BARRY: That is all.

THE CHAIRMAN: Then we will adjourn until 2.30.

---The Commission adjourned at 1 p.m. to resume at 2.30 p.m.

Fredericton, N.B.

Tuesday, July 19, 1949

AFTERNOON SESSION

The Commission resumed at 2.30 p.m.

THE CHAIRMAN: Very well, Mr. Covert.

MR. COVERT: Mr. Chairman, I think we left off with Mr. Tooke. Perhaps he would now resume the stand.

A. M. TOOKE, recalled

MR. COVERT: Q. Mr. Tooke, there are a few questions I want to ask you.

If you would be good enough to turn to page 21, the first full paragraph, at the top of the page, wherein you refer to the New Brunswick producers, and you say:

"There it is requested that the Board of Transport Commissioners be instructed to regroup freight rates from the New Brunswick field and set up a structure that will enable the New Brunswick producer to place his product in the natural outlets in New Brunswick and Quebec. . . ."

Do you think that Quebec is the natural outlet for Minto coal?

A. We feel that we have sufficient markets in the province of New Brunswick for our coal. We feel that it can be built up to that extent. At the present time, I say that we have not. But we feel, eventually, it will be built up.

Q. On page 19, if you will turn to page 19, you deal with the possible use of coal by present customers in a normal year. And there does not appear to be any provision in that 695,000 tons for coal for Quebec.

I understand from the paragraph following that 520,000 tons was your production in 1948?

A. Yes.

Q. That would seem to be a substantial increase; and yet, none is going into Quebec?

A. We are not so much concerned about the Quebec market.

Q. So, as far as freight rates are concerned to enable you to get into the Quebec market, you are not worried very much about that?

A. We have available a 50 per cent subvention in effect now, but it does not enable us to get our coal into Quebec.

THE CHAIRMAN: Q. It does not?

A. Not at present, no.

MR. COVERT: Q. On the question of the subventions at the bottom of page 19 and the top of page 20, and again on page 21 -- in the note at the top of 20, there is a reference to subventions, subsidies and bounties. Could you describe to the Commission just what are these subventions and subsidies and bounties, and how they work in New Brunswick, as compared to Nova Scotia, in view of the fact it has been suggested there is a difference in the two provinces?

A. I believe that in the years 1931 and 1942 that 37 cents was mostly on the subvention.

THE CHAIRMAN: Q. What is that?

A. I believe that in the years 1931 and 1942 that 37 cents was mostly on the subventions.

Q. There are three classifications given here, subventions, subsidies and bounties. Is that right?

A. Yes.

Q. Who pays these various grants?

A. The Government.

Q. Whom do the subventions come from?

A. From the Dominion Government.

Q. How are they measured?

A. The subventions were paid out in freight rates.

The railways are reimbursed through the subventions.

But the subsidies are paid directly to the mine operator.

Q. And how are they paid? At so much per ton?

A. That is right, at so much per ton.

Q. And what about the bounties?

A. Probably Mr. Matheson could answer that question.

MR. COVERT: Is that on coke?

MR. MATHESON: That is actually coke.

THE WITNESS: We do not produce coke in our area.

MR. COVERT: Q. The subventions are based on so much per ton per mile?

A. That is right.

Q. Is it a uniform treatment throughout the various areas?

THE CHAIRMAN: Do you say that the subsidies are so much per ton per mile?

MR. COVERT: No, the subventions.

THE CHAIRMAN: Oh; and that is a reimbursement of the freight rates?

MR. COVERT: Yes.

MR. COVERT: Q. And the same with the subsidies?

A. The subsidies with which we are directly concerned in there were during the war years. At that

time we were on a production subsidy which did not allow us to have a subsidy of over \$1 per ton, regardless of what it cost us to produce the coal.

If our costs were 45¢ a ton, we got a subsidy amounting to that. But if our costs were \$1.10 a ton, we just got the subsidy of \$1. During those years, I believe, Nova Scotia was paid on a different basis.

Q. You believe they were?

A. I believe they were, but I am not sure how far they were built up.

THE CHAIRMAN: Q. What are the bounties?

A. The bounties are on coke, but we are not directly concerned with these.

Q. Were all these three grants made by the Dominion Government?

A. That is right.

MR. COVERT: Q. And the only one which had reference to the freight rates was the subventions?

A. That is right.

THE CHAIRMAN: Q. Do I understand that there is no coke at all in all this area?

A. There is no coke made in the Minto area. Our coal is not very good for the making of coke.

MR. COVERT: Q. In connection with this re-grouping, this matter has been brought before the Board of Transport Commissioners previously, has it not?

A. Yes; I believe in 1939, and again in 1941 or 1942.

Q. Then, was it also taken up before the Coal Commission?

A. I believe it was, yes. But Mr. Matheson could probably answer better on that one.

Q. And in all these cases were the same arguments advanced as they are advanced here?

A. Pretty much so.

Q. And in all of these cases, nothing grew out of it?

A. No.

Q. Would the regrouping alone bring about the desired effect, or must there also be a lower freight rate in that particular group?

A. We feel that it would be of great help to us, although it might not be the proper way of doing it.

Q. If you had the lower freight rate -- I must confess I do not understand your regrouping -- could you explain it a little better and tell us exactly what it would do for you?

A. I do not know whether I could or not, very well.

MR. BARRY: It is explained on page 19. All Maritime coal fields are considered in one group for freight rate purposes.

MR. COVERT: Q. So what you want is to be put in another group?

A. That is right.

Q. So that there will be a different freight rate?

A. That is right.

Q. You suggested this morning that there be a 20% reduction over the existing --

A. We would feel that we want to have that much on the price of coal in order to enable us to command the market within the province at all times.

Q. Are your main customers those which are listed on page 19?

A. Yes.

Q. And would that assist you, for example, better in selling to the New Brunswick Electric Power Commission? Do they buy other coal in preference?

A. No. They buy all New Brunswick coal.

Q. Or the pulp and paper industries; do they buy coal, Nova Scotian coal, in competition?

A. Yes.

Q. And that would assist you, as far as the pulp and paper industry is concerned?

A. That is right.

Q. And does the same thing apply to the Canadian Cottons at Marysville?

A. Yes.

Q. And what about the railways; would it make any difference in their case?

A. Not so much.

Q. When I speak of "the railways," I mean both the Canadian National and the Canadian Pacific.

A. Yes.

Q. And this item below, the Maine, U.S.A., Woodland Pulp and Paper, do you sell there now?

A. I believe the competitive market there would be the American market.

Q. That would be -- ?

A. I believe it would be the American coal which would be competitive there?

Q. Do you sell coal to Maine now?

A. Yes.

Q. You do?

A. Yes.

Q. Do you sell as much as 36,000 tons?

A. Yes. That figure was quoted, I believe, from the year before last.

Q. So your main new customers, by virtue of the reduction, would be the pulp and paper industry at Dalhousie, Edmunston and Bathurst?

A. Not so much Dalhousie as the Edmundston and Bathurst ones.

Q. Dalhousie --- would that be on account of the water competition?

A. No. The Miramichi Lumber and Coal supply them with all their coal. We are a subsidiary of International Paper.

Q. So it would be Edmunston and Bathurst mills which would take your additional tonnage?

A. Yes. I am speaking more for the coal producers rather than for our own company.

(Page 4277 follows)

Q. Your suggestion of the 20% reduction is really based on the fact that it is of an inferior grade, and you think there should be some recognition, in other words it should^{not}/be so much per ton for hauling something that is less valuable?

A. That is right.

Q. Now, on pages 21 to 24 I think you deal with this question of the better Canadian National connections, and you deal with this spur line. Now, have the difficulties involved here been taken up with the railways.

A. I do not believe so.

Q. Have they been taken up with the Board of Transport Commissioners?

A. I believe in 1939 they were -- were they not, Mr. Matheson?

MR. MATHESON: There was a recommendation made that the Coal Association take it up with the Board of Transport Commissioners.

MR. O'DONNELL: Whose recommendation was that?

MR. MATHESON: Recommendation of the Maritime Transportation Commission.

MR. COVERT: Q. And was it ever taken up with the Board of Transport Commissioners pursuant to that recommendation

A. I could not tell you that, I am sure.

Q. Was that matter presented to the Coal Commission? Do you know that?

A. I believe it was at the time of the Commission too.

MR. MATHESON: It was referred to the Coal Commission, also to the Fuel Committee of the Dominion Cabinet in 1939.

MR. COVERT: Q. Do you know what the root of the trouble is here? Is it the fact that the Miramichi Lumber Company only can use that line under the agreement? Is that the main trouble

A That seems to be, yes.

MR. O'DONNELL: It is a private spur.

THE WITNESS: It is a private spur, yes, operated--

MR. COVERT: Q. They own it, do they?

A. Well, no. It is owned by the C.N.R. but operated by the Miramichi Lumber Company.

Q. Under lease or --

A. Practically under lease -- the same thing, under agreement.

Q. Mr. Tooke, turn to pages 24 and 25, Appendix A on page 24; do you know, and can you help us at all in connection with these rates? Do you know whether they are comparative rates? Did you prepare Appendix A?

A The rate that we are directly concerned with is between Sydney and Dalhousie. That rate I think was established in 1936, and at the time was in competition with water carriers.

Q. Is there no competition now?

A. There is no competition with water carriers, no. I think it is cheaper to ship by rail from Sydney than it is by water.

Q. It is cheaper to ship --

A. I would not say for sure, but I think that.

Q. You are suggesting that the \$2.10 rate from Sydney to Dalhousie is too low, in view of the fact that it was established by virtue of water competition that you say has now really disappeared?

A. I do not think we would like to see it changed so much, as it is only going to hurt the consumers over there in those areas other than the paper mills. I do not know whether that is directly just to the paper companies or not, to tell you the truth, or to all consumers of coal.

Q. I am sorry, I did not hear you.

A. I do not know whether that rate is directly to the paper companies or to all consumers of coal over in that area.

Q. Do you know anything about the Springhill Junction rate?

A. I think our rates were built up on that Acadia coal area; I am not so sure; Mr. Matheson might be able to answer that.

Q. Well, I will leave that to him.

THE CHAIRMAN: Q. Tell me, where is this Acadia coal area that you refer to? Is it in New Brunswick?

A. The Acadian coal field I think includes Stellarton and Springhill and that area down there.

THE CHAIRMAN: That is in Nova Scotia, is it?

MR. BARRY: It is near the New Brunswick boundary, in Nova Scotia.

MR. O'DONNELL: If you look at the map, Exhibit 51, you would see, although it is rather hard to handle. These places are all clearly set out there.

THE CHAIRMAN: That is the only map of New

Mr. Tooke

Brunswick we have here, is it:

MR. O'DONNELL: That is all we have, yes. We had to have this one made.

THE CHAIRMAN: All right, go on, Mr. Covert.

MR. COVERT: Q. On page 25, Mr. Tooke, this rate at Fredericton you give mileage from Hardwood Ridge, I think it is, to Fredericton as 130, and from Maccan to Fredericton 170, and the rates are 66 and 189. Have you gone into that at all?

THE CHAIRMAN: It is the other way around. You are giving the mileage figures for the rate.

MR. COVERT: Yes, I am sorry.

Q. Have you gone into that?

A. The miles from Fredericton are 66, at a 130 rate, and from Maccan 189 miles at a 170 rate.

Q. Yes?

A. We did not go into that so much as more or less to find out we are getting the worst of the deal in all cases, that is all.

Q. that one seems to be such a wide variance in the rates compared with the miles --

THE CHAIRMAN: Where is Maccan?

MR. COVERT: That is in Nova Scotia, Mr. Chairman.

MR. O'DONNELL: If I might interrupt there, Mr. Chief Commissioner, Maccan is just a few miles from Springhill, and Springhill appears about the middle of this map, just a little inland and below the place where the car ferry crosses to Prince Edward Island on the map.

THE CHAIRMAN: That is in Nova Scotia.

MR. O'DONNELL: Yes, just inside the boundary. Then of course we have Sydney away over here on the far end of the map, and Dalhousie is away up on the bay here. That is where the water competitive rate was originally put in for that shipment. Then these other mines run progressively westward across the map. Stellarton is in Pictou County in Nova Scotia, and then the next group of mines are over at Springhill, and Maccan is just a few miles from that, and then we go up to Chipman over here northeast of Fredericton slightly. It is rather hard to show you without having the map before you.

THE WITNESS: Did that rate also include Bathurst, Dalhousie and Bathurst?

MR. O'DONNELL: I think so, yes -- up in that same general area.

MR. COVERT: That is all, thank you.

THE CHAIRMAN: Has anybody else any questions to ask Mr. Tooke?

CROSS-EXAMINED BY MR. FRAWLEY:

Q. Mr. Tooke, you were telling Mr. Covert about a water rate from Sydney to Dalhousie, and also from Sydney to Montreal; do you know whether the water service is actually now operating, or has it been discontinued?

A. I do not believe there are any shipments by boat from Sydney to Dalhousie.

Q. No shipments by boat from Sydney to Dalhousie?

A. Yes.

Q. But there is in existence a water competitive rate?

A. Yes; I believe that is why this rate was built up in the first place.

MR. O'DONNELL: Potential.

THE WITNESS: Potential.

MR. FRAWLEY: Are you quite certain of your fact, that it is a case of a water competitive rate having been put in and kept in after competition disappeared?

A. That is what they have always told us.

Q Who told you that?

A. Anyone that we inquired from.

Q. The Canadian National Railways?

A. No, I don't say that.

Q. Do you know whether there is any movement by water from Sydney to Montreal up the St. Lawrence?

A. I could not tell you that, I am sure.

Mr. Matheson probably can answer you that.

Q. Is there any movement out of Sydney by water now to New Brunswick or Quebec?

A. Oh, I would say yes, into the Saint John markets, there would be coal brought in.

Q. Saint John?

A. Yes.

Q. There would be a movement from Sydney to Saint John?

A. I would think so. Some of our Nova Scotia friends could probably answer that.

Q. The Dominion Coal Company has its own shipments moving from Sydney to Saint John, hasn't it?

A. I think so.

Q. Do you know of any other water movement out of Sydney into the Maritimes except to Saint John?

A. I could not tell you that.

THE CHAIRMAN: He has told you Mr. Matheson can answer as to those matters.

MR. O'DONNELL: It appears to me that it would possibly save time if I gave the Commission references to certain documents which contain a lot of information that might otherwise take more time to endeavour to get.

THE CHAIRMAN: All right.

MR. O'DONNELL: There is the Archibald Report made to the Minister of Labour by the Hon. Mr. Justice M. B. Archibald, dated the 25th of July, 1941, in which he goes into the matter of the Minto Coal Mines in some detail.

THE CHAIRMAN: That is a report on coal, is it?

MR. O'DONNELL: Yes, on the Minto Coal Mines; that is the 25th of July, 1941. That, as I understand it, was an inquiry from the particular point of view of production of coal in the mines in the Minto area.

Then also the Commission will find considerable information in the Carroll Report, 1946, the Royal Commission on Coal. . The Minto Coal Field forms a subject of considerable comment, particularly on page 24, where the extent of the fields, the nature of the mines and the classification of the coal is set out at some length. The Commissioner pointed out there that coal mined in the Minto area is classified as high volatile "A" bituminous. In rank, it is comparable to the coals of Nova Scotia. In grade, however, it is inferior due to excessive impurities and its physical characteristics. It contains an appreciable quantity of visible pyrite and the ash and sulphur

contents in run-of-mine coal range from 15 to 25 per cent and 5 to 9 per cent respectively.

Then at page 173 of the report, under the heading "Government Assistance", the production subsidies paid to the Minto area, that is, the companies in New Brunswick, under the Emergency Coal Production Board rulings are set out, and it gives the details of the payments to each one of these companies.

Then again at page 352, under the heading "Specific Transportation Problems" and the sub-heading "Railway Rates from New Brunswick Mines", the report sets out some of the difficulties in that respect. It might be well possibly just to read those on to the record; there are two paragraphs here:

"The New Brunswick Coal Producers' Association, representing seven coal producers whose output constitutes over 90 per cent of the Province's production, submitted a brief to the Commission which dealt in part with the railway rates applying from the mines in the Minto-Chipman field to various destinations principally in New Brunswick. The brief calls attention to --

- (1) charges assessed for moving coal from the collieries over spur tracks to the main lines of the railways,
- (2) inequalities in these charges as between different mines, and
- (3) differences in rates from New Brunswick mines as compared with rates from Nova Scotia mines to certain destinations.

"Insofar as this rate adjustment may constitute unreasonable and unduly prejudicial treatment of

"certain operators in the Minto field as compared with other operators in the district, or as compared with Nova Scotia producers, it appears that these are matters which should be presented to the railways, and if necessary to the Board of Transport Commissioners. The Producers' Association does not, however, suggest that the freight rate structure be changed, but rather that the inequalities be eliminated by the payment of subventions. The same proposal has been made on previous occasions to the Dominion Government. There are a great many differences in freight rates as between coal producers in various parts of Canada, and for the Government to undertake by subvention payments to counterbalance all such differences would involve many difficulties. It is the view of this Commission that a recommendation of subvention payments for this purpose is not warranted and that the producers, if they feel that the present situation is a hardship on them, should pursue the matter further with the railways and the Board."

Then with respect to "Subventions and Other Aids", which is the heading of the chapter beginning at page 565, details of that fairly broad subject are set out there at length. There is a paragraph on page 565 which would give the Commission a quick appreciation of the situation. It reads:

"Growing out of the attention directed to Canadian coal supply in the late 1920's and early 1930's, and of the various test movements carried out, and also

"of the contraction in coal markets in the early 1930's, a system of Federal aid to enlarge the markets for Canadian coal developed. The assistance was generally known as transportation subventions. The purpose of these subventions was to equalize the competitive position of Canadian coals with respect to imported coals in various areas, principally Central Canada. The actual methods used varied from year to year, from area to area, and with the nature of the consumer, but in general the Federal Government contributed the approximate difference in laid-down costs of Canadian coal and the imported coal that might otherwise have been used. Among the methods adopted to achieve this end were the following:

- "(1) Paying on individual movements the difference between the laid-down cost of Canadian coal and the laid-down cost of imported coal that might otherwise have been used,
- "(2) Reducing the freight rate by paying the carrier a fraction of a cent per ton-mile,
- "(3) Reducing the freight rate by paying the carrier a percentage of the rate,
- "(4) Paying \$2.50 per ton on an \$8.00 rate offered by the railways for the movement of Alberta coal into Central Canada."

Then it goes on to discuss the purchases by the railway companies; I do not know whether the Commission would wish to take time to review that. Then it proceeds:

"We will now proceed to review Federal

"assistance under three headings, assistance by Orders in Council (Subventions), assistance under two Statutes, and assistance by customs tariff."

THE CHAIRMAN: What is the second?

MR. O'DONNELL: Assistance under two statutes. There are two statutes involved.

Then -- and this is pertinent because the distinction or the difference between handling in Nova Scotia and New Brunswick has been referred to -- it sets out:

"Starting in May of 1931, P.C. 1300 provided for the assisted movement of Nova Scotia coal to points in the Provinces of Quebec and Ontario. Under the prevailing conditions, water-borne Nova Scotia coal could be laid down at St. Lawrence ports to compete with imported coal, and to enable furtherance from these ports by rail assistance was granted by a reduction from existing rates varying from one-fifth per ton per mile to one-third cent per ton per mile, the maximum assistance being \$1.50 per ton. In addition, coal shipped wholly by rail to points in the Provinces of Quebec and Ontario during the period from November to April inclusive, was granted a reduction of one-seventh cent per ton per mile, the maximum assistance being \$2.00 per ton. In all cases the amount of the assistance was payable to the railways."

Then it goes on to give further information; it points out:

"To a great extent this assistance was for the protection of the consumer under the wartime price ceiling

"policy, which should be recognized in any consideration of this period.

It gives then the details of the payments made on the various movements of Nova Scotia coal from 1928 to 1944, and also sets out similar subventions paid to other companies in Quebec, I guess it is -- Montreal Coke and Manufacturing Company.

Then at page 568, under the heading "New Brunswick" it says:

Concurrently with granting assistance for the movement of Nova Scotia coal, assistance was also granted encouraging the rail movement to Quebec of coal mined in New Brunswick. With New Brunswick production being limited, the tonnages moved and payments made thereon were relatively small."

It occurs to me that that is the answer to the relatively small sums which New Brunswick received when compared to those paid to Nova Scotia.

There are other pages in that Report which I am sure the Commission will be glad to look at itself.

(Page 4291 follows)

CROSS-EXAMINATION by MR. O'DONNELL

Q Mr. Tooke, at page 16 of the brief, the first page which refers to coal in the brief of the New Brunswick government, some reference is made there to the inferior quality of the coal which is mined in the Minto field. There are difficulties, are there not, in the use of that coal?

A Yes.

Q You have to have a particular type of burning equipment in order to handle it and use it?

A Yes.

Q I assume it is not so universally used as Sydney coal?

A No, we cannot control any domestic markets.

Q I am informed that even right at Chipman, in the L.E. Shaw brickyard there, while the Minto coal is right at hand, they have to use Springhill coal?

A That is right.

Q And that is just illustrative of the difficulty which people have in using it?

A That is more or less a domestic coal they use . We cannot get into any domestic market. Our coal does not allow us to do that.

Q With regard to page 18, Mr. Chairman, under the heading of "Basic Difficulties" I think that nothing better could be put on the record than what is contained in the Carroll report, to which I make respectful reference. At page 19, Mr. Tooke, at the top of the page you say:

"The producers give the following data on possible use of coal by present customers in a normal year."

I take it the producers referred to are the various mining companies in the field?

A That is right.

Q They do not seem to indicate, however, what is a normal year. This estimate of 695,000 tons is 175,000 tons more than they mined last year or sold last year, is it not?

A Yes.

Q And they are hopeful that they will be able to find customers to take 695,000 tons?

A These customers who can use Minto coal are all industrial users. If they can be prevailed upon to use this Minto coal they could become customers. If we make the price attractive enough to them they would become our customers.

Q As a matter of fact, the production of the Minto coal field has grown very considerably, has it not?

A Yes.

Q Since 1910; that is about when the field was opened up?

A Yes, I believe it was around that date.

Q Because that is the earliest figure that is mentioned in the report of the Hon. Mr. Justice Archibald at page 5 of that report.

A I think those same figures are contained in the Carroll report, too.

Q Well, I have them handy here. In 1910, Mr. Chairman and members of the Commission, the report of Mr. Justice Carroll found that the production of coal in this area for that year was 47,072 long tons. In 1920 it was

135,297 long tons. In 1930 it was 180,120 long tons, and in 1940 it was 473,633 long tons, and then to complete that, using the figures which are shown on page 19 of the brief, in 1948 actual sales were 520,000 tons, and it is hoped that in 1949 it will reach a figure of 695,000 tons.

A We hoped to reach a figure of 600,000 tons, but we know now we won't.

Q In any event, with the various freight rates as they have been through the years, the Minto field has been able to increase its production progressively in the figures we have just read onto the record. What do you think you will get this year? You say now you know you cannot reach 600,000.

A I think we will do well to do as well as we did last year.

Q Last year was 520,000?

A Yes.

Q That is due to production difficulties, or what?

A It is due to markets.

Q Marketing in competition with other mines in the Maritimes which are also selling coal?

A That is right.

Q Would you be good enough to look at page 19, the list of present customers. I take it that the Miramichi Lumber Company is the owner of the Minto Mine, is it not?

A That is right.

Q And you said that is a subsidiary of the Canadian International Paper Company?

A That is right.

Q And Dalhousie is the point at which the plant

of the Canadian International Paper Company is situated?

A That is right.

Q And your own company, I understood you to say, although owning the Minto mine, actually buys some coal from the Sydney mines?

A Yes, up till this present year. I do not believe they plan on it this year.

Q But in the past you have been buying Sydney coal?

A That is right.

Q I suppose that is because of the fact that Minto coal is not usable for the purpose for which you have to have Sydney coal?

A Right up until this past year they could not pulverize it, but since installing new pulverizers they can handle 100 per cent Minto.

Q Were you mixing Sydney coal with Minto coal?

A Yes, they did during the winter months.

Q That transaction there, the handling of the purchase of Minto coal by the Canadian International Paper Company, is not necessarily a commercial proposition, is it?

A No.

Q That is, you operate the mine particularly for your own mill, and then whatever surplus you have you sell in the open market?

A That is right. As a company we have no direct kick at all in any case.

Q And this map that is attached to the brief indicates the location of your mine. Your mine is in the

north Minto mining area as shown on the map?

A Both north and south. We have a stripping operation in the south Minto area. The rest of our mining is in the north Minto area.

Q In the middle of page 19 you say:

"The Maritime coal fields are considered as one group for freight rates."

Is that exactly correct? Are there not really four groups in the Maritimes?

THE CHAIRMAN: Is this one of the cases that Mr. Matheson is to tell us all about?

MR. O'DONNELL: I do not know.

THE CHAIRMAN: Is that right?

THE WITNESS: Yes.

MR. O'DONNELL: Q. You don't know about that?

A No.

Q You would prefer that Mr. Matheson answer that?

A Yes.

Q Well, I will leave all that until we have the pleasure of chatting with Mr. Matheson. Incidentally, what does your coal sell for, Minto coal?

A \$7.20 f.o.b. mine.

THE CHAIRMAN: Q. \$7.20 where?

A F.O.B. mine.

Q At the mine?

A Yes, and railway coal \$7.80.

MR. O'DONNELL: Q. Railway coal \$7.80. You charge the poor old railway more than anybody else.

A Yes, but we give them twice as good coal.

MR. FRIEL: Q. There is a difference in the coal

you sell the railway?

A We have to give them screened coal. Anything below $1\frac{1}{4}$ inches is industrial coal or slack.

MR. O'DONNELL: Q. They have to have a better quality coal for their purposes?

A Yes.

Q Can you tell the Commission what the price of Maccan coal is? Do you know the price of the Maccan coal offhand?

A These are last year's quotations. \$8.85, Acadia. That is in the Maccan district.

Q Acadia coal or Maccan coal, and that is coal that comes from the Joggins mine?

A No, it comes from Stellarton. We have never built up any of these on Joggins coal.

Q This \$8.85 is Acadian coal?

A Yes.

Q They are all f.o.b. mine?

A That would be all in that area.

Q And then the price for Stellarton is what?

A \$8.85.

Q Do you know the Sydney price?

A \$8.25.

MR. FRIEL: Q. Did you give Maccan and Stellar-ton both as \$8.85?

A I think that is all the Acadian coalfield. It all comes from that one cleaning plant there.

MR. O'DONNELL: Q. You spoke of a subvention within the province. I did not quite understand what you meant by that.

A That is \$8.85 pea and \$8.35 fine.

Q What?

A \$8.85 pea coal and \$8.35 fine.

Q How does the subvention within the province which you mentioned refer to those?

A I believe I would like Mr. Matheson to answer on that.

Q Are these all long tons, or short tons?

A No, short tons.

Q All these prices are short tons f.o.b. mine?

A Yes.

Q And your own prices likewise?

A Yes, the same thing.

Q As far as the railways are concerned, a ton of coal is a ton of coal whether it is --

A Good or bad.

Q And there is one rate for all the coal. That is how it stands at the present time?

A Yes, that is right.

THE CHAIRMAN: Q. What is the price of railway coal?

A \$7.80, and I believe Nova Scotia is exactly the same.

MR. O'DONNELL: Q. Is that screened coal, the \$7.80?

A Ours is. I don't know what grade it would be down there.

Q You gave me a price of \$8.25 for Sydney coal?

A That is fine coal. That is for industrial use. I don't know what they get for their railway coal.

Q At page 22, Mr. Tooke, at the bottom of the page

you say:

"Possible new tonnage from North Minto field:
80,000 to 100,000."

Where would you propose to attempt to sell that possible new tonnage?

A Well, that is to build up that market to the 695,000 tons.

Q But in what area or to what potential customers ?

A In that case it would be mostly C.N.R. customers so that should help you some.

Q To the C.N.R. itself?

A No.

Q Customers on the C.N.R. line?

A Yes, and the C.N.R. themselves.

Q At page 24 the brief sets out that this flat increase of 20 cents a ton works a hardship on the operators. You pointed out that a percentage increase of 21 per cent would have been lower than the flat increase of 20 cents a ton?

A That is on the south Minto area only. That has not anything to do with the C.N.R.

Q That is the other line?

A Yes.

Q But on the rates prevailing there a percentage increase, a horizontal increase, would have been more suitable to the operators of that area?

A Yes.

Q So we have the position of the brief pointing out the iniquities of the horizontal increase on one page, and advocating their adoption on another page.

THE CHAIRMAN: Where is the adoption advocated, on page 24?

MR. O'DONNELL: Page 24.

THE CHAIRMAN: It is said to be preferable there to the flat increase of 20 cents?

MR. O'DONNELL: Yes.

THE CHAIRMAN: And between the two he would select the horizontal in that case.

MR. O'DONNELL: They do in this case. They think in this case they would like the horizontal because it is lower.

THE CHAIRMAN: Is there a third possible system that would be better than either of the others or both of them?

MR. O'DONNELL: There might be. I asked Professor Love this morning if he had any ideas and he did not indicate that he had. I think Mr. Matheson suggested there might be some other alternative arrangement.

THE CHAIRMAN: We will hear from Mr. Matheson.

MR. FRAWLEY: There will be more ideas advanced in the fall on the subject.

MR. O'DONNELL: Mr. Frawley is cogitating on that during the summer months.

MR. BARRY: A 20 cent flat increase on a 30 cent rate is so substantial --

MR. O'DONNELL: The 30 cent rate may have been too low.

THE CHAIRMAN: In this case it is worse than the horizontal.

MR. O'DONNELL: Q. Mr. Tooke, you were asked as

to the movement from Sydney to Dalhousie. I think Mr. Frawley asked you a question as to whether or not there was ship movement there at the present time. As I understand it, that rate was originally put in by the railways to meet actual water competition from Sydney to Dalhousie. Is that right?

A I believe that is right.

Q And your mill at Dalhousie, as a matter of fact, has docks and is built in such a way that a ship can anchor or tie up right at the mill?

A Yes, and unload there.

Q And the potential possibility of water borne coal from Sydney to Dalhousie is there all the time?

A I would say yes.

Q And if the railway rate was to be increased too much the chances are your very astute principals would be buying their coal from Sydney again by boat?

A According to you yesterday that was not going to be. Water rates were much higher than rail.

Q That is something else, but the only point I am making is --

A We hope they will stay the same there, too.

Q Your mill is built in such a fashion that boats can tie right up at the dock?

A Yes.

Q Now, as to Appendix A on page 24 - if you are not familiar with this and prefer to leave it to Mr. Matheson that is all right - it is my suggestion that these rates set out there do not give the entire picture in that, for instance, on that first movement from Sydney to Dalhousie

there should be an additional 28 cents to cover the cost of getting the coal from the mine to Sydney, that is, the Sydney and Louisburg Railway Company charges 28 cents for moving the coal in the first instance. Is that right?

A How do they deliver it to Dalhousie for \$10.25?

Q I don't know, but do you know whether or not there is that charge of 28 cents?

A They do not purchase on that. They do not pay all freight charges.

Q Who does not pay all freight charges?

A The consumer.

Q Well, the rates that are set out here, \$2.10, that is the Maritime Freight Rates Act rate, is it not?

A That rate I gave you on the price of coal, \$8.25 f.o.b. mine, and \$2.10 freight rate, which means \$1.35 f.o.b. Dalhousie, so there are not two rates quoted in there. There is only one.

Q There is only one set out here, but have you not got to move it from the mine in the first place, and does that not cost you 28 cents?

A What I mean is the seller does not sell it that way. They sell it for \$8.25 f.o.b. mine, and then there is \$2.10 freight rate, which costs the consumer at Dalhousie \$10.35.

(page 4305 follows)

Q. Do you think the seller is absorbing the 28¢?

A. I could not say; I do not know.

Q. Do you know about the Springhill movement?

That is the third item there, Springhill Junction, Acadia coal to Dalhousie, \$1.30?

A. Those are quoted the same way. I do not know if f.o.b. means Springhill or right at the mines.

Q. My understanding is that the Cumberland Railway and Coal Company have to haul it a certain distance first, and that they get 18¢ for doing it?

A. You mean that the producer pays them that?

Q. I do not know that; but I believe the 18¢ should be added to it.

A. We should do ours, too, in that case.

Q. That may be. And when you refer to yours, you have reference to the footnote at the bottom of Appendix A?

A. Yes.

Q. And you make a 10-cent charge?

A. No; we feel that is what it costs us.

Q. Does not the Miramichi charge 10¢ for removing the coal on this set-up?

A. No. That is just what it costs us to move that.

Q. That is, up to Hardwood?

A. Yes.

Q. You move it from the mine to Hardwood; and I suppose the others have to move it from the mine over those two railroads?

A. It would be f.o.b. Springhill.

Q. And in the next paragraph you say:

"The rate from Sydney, N.S. to Dalhousie, N.B., is less than the actual cost as calculated by the railway for O.C.S. coal, . . ."

Where did you get that information?

A. I believe that was in the Archibald Report.

THE CHAIRMAN: Q. Is that the one that Mr. Matheson knows about?

A. Yes.

Q. Do you not think we had better pass over it now, Mr. O'Donnell; it would save time.

MR. O'DONNELL: Yes.

Q. I just asked him if he knew. Now, page 25; do you know anything about the rates which are set out there?

A. I believe that is also Mr. Matheson's.

MR. O'DONNELL: Well, I think that is all I have. Thank you very much.

THE CHAIRMAN: Has anybody else got any questions? Thank you, Mr. Tooke.

MR. COVERT: Mr. Cunningham, I think, is here now.

G. C. CUNNINGHAM, called

MR. BARRY: Q. You are Mr. G. C. Cunningham?

A. Yes.

Q. And your home is in Fredericton?

A. Yes.

Q. What is your position?

A. I am director of potato production and marketing for the New Brunswick Department of Agriculture.

Q. There were some questions asked this morning, and I repeat this to give you the background. The

questions concerned the markets to which New Brunswick potatoes go normally. Would you please tell the Commission where the normal markets for New Brunswick potatoes have been for the past few years?

THE CHAIRMAN: When you say "normal" do you mean "usual"?

MR. BARRY: Q. I mean their markets, the usual markets, where they always are and have been.

A. Perhaps, for the last hundred years, our main potato market has been in central Canada.

Q. Montreal and Toronto markets?

A. Montreal and Toronto, and all of Ontario and Quebec. If you wish detailed figures, I think I could give you them for any year. But I happen to have here our domestic movement of potatoes, which means our shipments to Ontario and Quebec.

Q. What are they?

A. Our potatoes do move to all provinces in smaller quantities, even as far west as British Columbia. Almost every year we will put a few cars into Manitoba, Alberta and Saskatchewan. We will also put a few cars of early stock into Nova Scotia, the Sydney area, but those are minor movements compared to some of the others.

For 1941, our shipments of potatoes to domestic markets, largely central Canada, amounted to 4,431 cars. In 1942, it was 5,008 cars. In 1943, it was 8,567 cars. In 1944, it was 2,893 cars. In 1945, it was 6,546 cars.

I can also give you the shipments for last year.

Q. Those were all shipments to the Canadian market?

A. Yes; that is, of table stock. Last year, our shipments -- 1947-48 -- our shipments to the Canadian market would be 6,205,000 bushels. Divide that by 750. I will give you those figures. My first figure is 5,186.

MR. O'DONNELL: Q. Is that for 1946?

A. That is 1947-48. You want 1946? All right. 1946, to the Canadian market, was 5,883,000 bushels; and divide that by 750.

MR. BARRY: Q. It was 5,883,000 bushels to the Canadian market in 1946?

A. And to arrive at a carload you divide by 750, approximately. It may vary. In 1947-48, it was 7,187,000 bushels.

MR. O'DONNELL: Q. In 1947?

A. In 1947. I will make a qualification.

COMMISSIONER INNIS: Q. How many pounds to a bushel?

A. Sixty. I am making a qualification. No, that figure stands.

MR. O'DONNELL: Q. I wonder if we could have the figure for 1947 and 1948 separately?

A. The qualification I wished to make there was ^{were} that the dates I gave you/for the year of production; but the marketing continued on into the following year.

MR. BARRY: Q. It is 1947's crop marketed between 1947 and 1948?

A. Correct.

MR. O'DONNELL: Q. How much do you make that?

A. I have not the figures for 1948-1949.

MR. BARRY: Q. Mr. Cunningham, potatoes are not shipped to the United Kingdom by water?

A. We do not ship potatoes to the United Kingdom or Northern Europe because they are producers of potatoes also for export. Incidentally, we are debarred from the English market and from some of the other markets because of our Colorado potato beetle.

THE CHAIRMAN: Q. Because of what?

A. On account of the European regulations against the Colorado potato beetle, we do not ship there, and for two reasons. First, the Colorado potato beetle, and secondly, their costs of production are less than ours.

I would like to give you in conjunction with that, our markets. We do have other foreign markets which take relatively small amounts. But the Canadian market, normally, takes 50 per cent of our total shipments.

Q. Fifty per cent?

A. Approximately 50 per cent.

Q. And the other 50 per cent goes abroad?

A. Yes, to other countries. Some years more and some years less. I will give you the table stock. The 1947-48 crop, to the United States, was 339,585 bushels; from the 1946 crop, 1,711,735. Newfoundland, 8,672 bushels in 1947. In 1946, Newfoundland took 4,543 bushels. Bahamas or Bermuda, 6,236 bushels in 1947.

MR. COVERT: Q. Your figures are all in thousands?

MR. O'DONNELL: I was going to suggest that we put in the agriculture report; that might simplify matters.

MR. FRAWLEY: You will be putting it in later.

MR. O'DONNELL: I would be glad to unless somebody else does.

THE WITNESS: Following on, there are a number of other countries which take table stock potatoes from us.

MR. BARRY: Q. That is all in the report?

A. Yes.

Q. Then we will file that report with the Commission, and they can take the figures from it.

THE CHAIRMAN: Q. There are shipments to the United States. Is there any United States customs tariff against our potatoes?

MR. BARRY: There is a quota against them.

THE CHAIRMAN: A quota on the volume?

THE WITNESS: There is a tariff. Our quota on table stock is 1,000,000 bushels.

THE CHAIRMAN: Q. Per year?

A. At $37\frac{1}{2}\phi$ per 100 lbs. When the quota is filled, it goes back up for a part of the year to 60ϕ per hundred pounds.

Q. Oh, I see. The quota, then, is on the reduced tariff? You can keep on shipping after that, but you have to pay more?

A. As high as 75ϕ per 100 lbs. We have a similar quota and tariff on certified seed. I would like to say just a word because I know you want to know about the fluctuations in the markets from these districts.

When we have a large crop and Ontario and Quebec have a poor crop, we sell them more. When the United States has a short crop, they naturally want to buy more. So our markets fluctuate from that standpoint, as well as our prices.

You might ask, from these figures, why these big fluctuations, but it is a question of their own production at home.

MR. BARRY: Q. Sometimes you may ship 4,000 cars, and the next year, 7,000 cars, because of that fluctuation?

A. That is right.

MR. COVERT: Q. That, I take it, sir, is the explanation of the figures on page 26 of the brief. Have you the brief in front of you?

A. No, I have not. I only saw it just for a minute. That would explain it; that, and also our own production.

If our own production is low, we naturally do not; and if their production is high, we naturally do not ship as many.

Q. Now, in the first paragraph of the brief, dealing with potatoes ---

THE CHAIRMAN: What page is that?

MR. COVERT: Page 26, Mr. Chairman.

Q. There reference is made: that since 1940 the potato crop has averaged around \$15,000,000 per year. Does that include seed potatoes in that figure?

A. That figure will include seed potatoes.

Q. Is there a different market for the seed potatoes than for the domestic potatoes?

A. The consumption potatoes.

Q. Consumption potatoes. You have two classes, table potatoes and seed potatoes?

A. As far as New Brunswick is concerned, we supply a relatively small proportion of the seed sold to Ontario; a little more to Quebec; a little larger proportion to our biggest market, annually, which will be in the United States; and that is followed by markets normally in Argentina, Uruguay, South Africa, Venezuela and a number of other countries.

Q. And when you refer to the main market for your potatoes as being in Central Canada, you are referring there to table potatoes?

(Page 4317 follows)

Q. What would you say as to your relative position in competing for the Central Canada market as compared with Prince Edward Island? Are you in a better position to compete, being nearer the market?

A. I think perhaps not to any great extent, not to an appreciable extent.

Q. Do you know, is there the same freight rate?

A. No, I believe the Island has a couple of cents a hundred more freight rate than we do. I am not sure of those figures; Mr. Matheson will give you that.

Q. Are they one of your largest competitors in the Central Canadian market?

A. Yes. I think we do not consider them competitors; we share the market with them, as far as the market goes.

COMMISSIONER INNIS: Q. How much more quickly can you get into the market than Prince Edward Island?

A. In the season?

Q. Yes; take an ordinary shipment; you have an advantage in terms of speed or time?

A. I do not believe it would be more than two or three days 'extra haul.

MR. COVERT: Q. And would that make any difference?

A. I think not.

Q. Could you explain the general system of marketing the potatoes? Does the farmer, for instance, sell direct to the consumer in the market?

A. In New Brunswick practically all of our potatoes are sold through independent dealers.

Q. Independent dealers?

A. Yes. There is only one co-operative potato-

shipping organization, and it is very small, but there are some 125 to 150 licensed dealers who handle the potato crop.

Q. Licensed dealers -- licensed by the province?

A. No; under the Dominion Fruit and Honey Act, by the Dominion Fruit and Honey Act.

Q. Under the Dominion Fruit and Honey Act?

A. For the interprovincial trade.

THE CHAIRMAN: What is the name of the Act?

MR COVERT: The Dominion Fruit and Honey Act.

Q. Is it difficult to get licensed under that Act?

A. Twenty-five dollars.

Q. Is that the only qualification?

A. I think so.

Q. The farmer then generally sells **his** potatoes to a dealer?

A. Who in turn sells perhaps through a broker to a dealer in the central markets, or direct to a jobber, or in some cases direct to a wholesaler.

Q. Where is the jobber? Is he in New Brunswick?

A. In Central Canada.

Q. In Central Canada?

A. Yes, he is in Central Canada, and he in turn will distribute them to small stores, etc.

Q. The reason I asked that is, at the bottom of page 26 of the brief you say:

"The business of growing and selling potatoes is highly competitive. Grower competes with grower in disposing of his crop at the warehouse or siding, dealers and shippers compete for orders and for the crop of the grower."

A. That statement is quite correct, in that a dealer may only want a few cars this week, consequently he is going to take them from the growers who are ready to offer them at the lowest price.

Q. Does this make for a highly competitive price throughout the season? Does this grower compete with the grower --

A. Yes.

Q. It does?

A. It means that the grower must take the price that the shipper is willing to pay, which is the lowest price for which he can get potatoes and at which he can sell them in Central Canada.

Q. Is that perhaps one of the reasons why there is the suggestion that this is a marginal industry?

A. I am afraid I do not understand that term thoroughly.

THE CHAIRMAN: There is competition on both sides, is there not? That is, the buyers compete among themselves and the sellers compete among themselves; that is what I gather from this.

"Grower competes with grower in disposing of his crop at the warehouse or siding, dealers and shippers compete for orders and for the crop of the grower."

Therefore you have two sets of competitors, haven't you, competing with each other?

MR. COVERT: Q. Is that the situation?

A. Yes, you do have that.

Q. Then this competition does not bring the price level down?

MR. FRIEL: It works both ways.

THE WITNESS: It works both ways, yes.

COMMISSIONER INNIS: Q. Do prices fluctuate materially, and does that explain the intervention of the Government in fixing prices?

A We have not had since the war price fixing except during this past season, when the Agricultural Price Support Board undertook to guarantee to pay for potatoes held by growers on the basis of \$1.15 per hundred pounds, and that just occurred this past season.

Q. Were you not under the Prices Board?

A. This past season, yes, just for certain lots.

MR. BARRY: The question was, during the war period -- yes.

THE WITNESS: During the war period, yes, definitely, we were. Our prices were limited.

MR. COVERT: Now, Mr. Cunningham, would you care to express an opinion as to whether or not production of potatoes in general had reached a peak in New Brunswick?

A. I take it the question asked is, are we producing as many potatoes now as we could produce, or can we increase our acreage?

Q. Yes.

A. Definitely, if prices were favourable and markets available, we could increase our present production several times; the land is available.

Q. Mr. Cunningham, as I understood it, what you gave were not production figures but were shipments, when you were giving evidence?

A. Yes.

Q. Can you give us comparative production figures over a period of years, that is, of production of potatoes in New Brunswick, to show whether or not there has been an increased production in the war years and afterwards as compared with prior to the war?

A. Two factors enter into answering that question -- the acreage and the yield per acre. Considering the acreage, in 1915 production in New Brunswick amounted to 40,000 bushels; 1916, 39,000 bushels; 1917, 46,000 bushels; 1918, 57,000 bushels; 1919, 75,000 bushels; 1920, 78,000 bushels.

THE CHAIRMAN: Q. Is this the total production?

A. Total acreage in New Brunswick.

Q. Acreage?

A. Acreage.

MR. BARRY: You are calling it bushels, Mr. Cunningham.

THE WITNESS: I beg your pardon, then, .
1920, 78,335 acres.

THE CHAIRMAN: Q. Acres?

A. Acres. 1921, 74,875 acres; 1922, 74,811.

I stop there because that is the period of the first World War and the post-war period. Immediately following that prices went off, over-production, and our acreage commenced to recede. In 1923 the acreage was 45,522 acres; 1924, 46,231; 1925, 40,000 -- back where we started in 1915. Following that period, without giving you all these figures, it tended to increase, up slightly, gradually, up until the beginning of the last war, and it increased a little bit more, until last year our

acreage was 68,000 acres. It gradually went up.

MR. COVERT: Q. So last year was your peak year?

A. Was the peak year of this last period.

Q. That was your acreage; was last year your peak production year as well?

A. Not quite. The year before and the year before that we had a greater production, I believe.

THE CHAIRMAN: How many bushels per acre is the average yield -- or barrels, perhaps?

MR. COVERT: According to the Dominion Bureau of Statistics, I believe the five-year average in New Brunswick is around 138 bushels per acre.

THE CHAIRMAN: 138 bushels per acre?

THE WITNESS: Hundredweight.

MR. COVERT: 138.

THE WITNESS: That should be hundredweight, one hundred pounds, not bushels, in that case.

THE CHAIRMAN: What is that?

MR. COVERT: Per acre?

A. Unfortunately we use three terms -- bushels, barrels and hundredweights -- and in addition 75 pounds, and these units are frequently mixed up.

THE CHAIRMAN: Q. Then to give us the yield, the average per acre yield, any way you like, whether it is bushels or barrels or hundredweights, how much would it be

A. In 1947 our average yield in New Brunswick was 237 bushels.

MR. BARRY: Q. Per acre?

A. Per acre. In 1948 255 bushels per acre. Now

I think perhaps in answering that question I should also give you for comparison the average yield in the other provinces of Canada.

MR. COVERT: Q. I believe New Brunswick is the highest?

A. Is the highest.

Q. And the nearest competitor is?

A. Prince Edward Island as a rule.

Q. Prince Edward Island, and then British Columbia?

A. British Columbia. In Quebec in 1947 their average yield was 118 bushels; Ontario 133; New Brunswick 237; Prince Edward Island 225; Nova Scotia 142; British Columbia 208; Saskatchewan 107 ; Manitoba 123; Alberta 133. The average for all Canada was 152 bushels per acre, compared with 237 from New Brunswick.

MR. COVER:T: That is all I have to ask.

THE CHAIRMAN: Any questioning?

MR. O'DONNELL: I think it might be a matter of convenience, Mr. Chairman, if Mr. Cunningham would be good enough to produce a copy of the report.

CROSS EXAMINED BY MR. O'DONNELL:

Q. I understand you prepared the report, Mr. Cunningham, as Director of Potato Production and Marketing Service, which is found in the Annual Report of the Department of Agriculture for 1948; you prepared that report?

A. I did.

Q. And in that you give considerable statistics, comparisons of yields and acreages, and you give it

province by province, and your Association has pretty complete records, I take it, of the acreage from 1915 forward?

A I have this here.

Q. And you also have the yields in bushels -- that is the way you set it up in your report -- and I take it that would be a handy way to have it?

A. I have it right here.

MR. O'DONNELL: May I label the report, Mr. Chairman, Exhibit 54.

MR. COVERT: Exhibit 54..

EXHIBIT 54: Annual Report of the
Department of Agriculture,
New Brunswick, for the
year ended October 31,
1948.

MR. O'DONNELL: In your report you set the statistics up on a yield per acre in bushels, and then you give the total production in bushels. I wonder if it would be too much to ask you to prepare a complete statement back to the year with which you started, showing the acreage in each year, the yield per acre in bushels and the total production. You have given the total production in Canada and you have given a breakdown by Provinces. If you would be good enough to prepare a table giving all that information it would be very handy for comparative purposes, I think.

COMMISSIONER INNIS: Average prices.

THE WITNESS: From 1915, for all provinces?

MR. O'DONNELL: Yes; and, in keeping with the suggestion of Dr. Innis, to put the average prices on year by year too for all provinces and for Canada as

a whole. You have a complete set of statistics, I take it, which would facilitate your doing that very readily, have you.

A. I think so.

Q. You break it down by table stock and seed potatoes?

A. Yes.

Q. I take it the seed potato industry is not quite as old as your table industry?

A. That is right.

Q. But it would be interesting to have those statistics as well. Now, in your report, Mr. Cunningham, you indicate that there are considerable sales in the United States, for instance, 1946, at page 121 of Exhibit 54, there were sold in the United States 1,711,735 bushels; would those potatoes be distributed in any particular area in the United States or would they go all over the United States?

A. Maine is our largest, probably our largest individual state, but our certified seed will go to all the eastern States and occasionally Alabama and Texas.

Q. And your seed goes far afield into various countries also which you have listed at page 121 of this same Exhibit?

A. Yes.

Q. MR. O'DONNELL: Incidentally this Exhibit 54, Mr. Chairman, is entitled "Annual Report of the Department of Agriculture of the Province of New Brunswick for the year ended October 31st, 1948, published by Order of the Legislature." That is for the

purpose of identification.

Q. Now, I was interested in what you said, Mr. Cunningham, about sales. You mentioned licensed dealers and brokers, then you mention another dealer, jobber and wholesaler; those are all different types of people who are interested in the distribution of your potatoes.

A. And handling them to the ultimate consumer.

Q. And I take it that each one in turn has to be remunerated, and gets a commission for his handling of the potatoes?

A. Yes.

Q. Have you any idea what the average commission would work out to?

A. I would not dare estimate that.

Q. What does the broker charge for handling them? Do you know that?

A. That will vary.

Q. With the broker.

A. With competition.

Q. Some brokers think they are more --

A. Important, and they have a chance sometimes to charge more than others.

Q. What is the mark-up that the wholesaler takes?

A. The only mark-up that would be definitely provided for would be under the Wartime Prices and Trade Board. At the present time there is none.

Q. At the present time there is none?

A. No, no definite mark-up.

Q. Well, no restrictions?

A. Whatever the traffic will carry.

Q. Yes, it is whatever you can sell them for now.

A. Yes.

Q. During the war they were restricted like everything else, but now the market is open?

A. Open.

Q. Except that there is a floor, I understand, is there not, on potatoes?

A. Just this past spring, for about two months.

Q. And at the present time the floor is what? What is the floor price?

A. The floor was --

MR. BARRY: \$1.15, I take it, per hundred pounds.

THE WITNESS: \$1.15 per one hundred pounds. Of course, there are no potatoes on the market now from New Brunswick.

MR. O'DONNELL: No, you are holding them, I take it, for a better price a little later, possibly; and is that type of thing what you refer to at page 122 of your report, where you set out factors influencing sales? You go on there to discuss the omissions and commissions which have an influence on the marketing of your crop from year to year, and I see there you say that "no one agency or class of agencies is responsible for our failures, -- rather all are failing to make the most of our opportunities. Each must constantly bear in mind that we are marketing our product with similar products from other countries. These countries are equally anxious to expand their trade. Competition will eventually force us to adopt improved methods or force us out of potential markets. Our attitude of 'Take it or leave

it' until it is too late, is creating a condition which our customers will not accept, but will turn to other sources where they obtain better treatment and have something to say in the purchase and selection of their requirements." Just what do you mean by that?

A. The last phrase?

Q. Well, the 'take it or leave it' attitude; is that due to the holding of the crop from marketing for a certain period of time?

(Page 4329 follows)

A There is in a good many circles the attitude taken by officials and others that if you name your price the other fellow will pay it. In the case of potatoes that is not true. The other fellow does not have to. He can buy his potatoes elsewhere, or he can go without, and with our certified seed, to which that largely applies, we are in competition with Europe, and more serious competition as Europe gets established, competition from Scotland, Ireland, Holland, Denmark, Poland, Lithuania and to a lesser extent some other countries, and our price, considering quality, must be favourable enough for them to buy from us rather than from others. There is just a tendency that some of those markets that we have been having in the last few years will go elsewhere for their seed rather than take the stiff prices we have been asking.

Q You also make reference to page 112 of that same exhibit, Exhibit 54, where you comment on the marketing of the 1947 crop, and you say:

"Marketing of the 1947 crop was highly successful, largely because of a heavy demand from South American countries and the United States, and reasonably good demand in Central Canada."

Then you point out there is heavy production in the United States, and the market in 1948 was not expected to be quite as good. Then you comment on a further discouraging feature. You say:

"A further discouraging feature was our failure to successfully negotiate extensive sales in Argentina, Uruguay and South Africa. In this case

we were unable to supply a sufficiently high percentage of small sized seed to meet their demand and were unwilling, until too late in the season, to quote a price in keeping with their ability to pay."

What does that mean, that your growers would not give a price?

A Our growers and dealers.

Q They would not quote a price?

A They quoted a price but it was too high, and then too late before they reduced it.

Q On page 121 you make your report concerning the 1948 crop, and you say:

"The marketing of the 1948 crop does not promise to be as successful as of recent years, especially in returns to the growers. This is primarily due to excessively large production in both Canada and the United States, resulting in lower prices. Nevertheless New Brunswick has to date exported heavily to the United States markets. However, in view of the fact that the quotas under a duty of $37\frac{1}{2}$ cents per hundred on seed and table stock have both been filled, and future sales to the United States must be made under a duty of 75 cents per hundred, future sales may be curtailed for the balance of the shipping season."

The 1948 crop for the most part was sold after the 21 per cent freight rate increase had come into effect on April 8, 1948, was it not?

A I beg your pardon?

Q I say your 1948 crop was marketed during the 1948-49 season, and that is entirely after the 21 per cent freight rate increase had been in force. It came into effect on the 8th of April, 1948. Do you remember that?

A Yes. I would have to say in conjunction with this right here that there was a change in our trade agreement with the United States.

Q The American growers complained, did they not, about your shipping into the United States?

A They complained, and an embargo was placed on table stock.

Q And that is one of the reasons why your 1948 crop was not marketed so successfully as the year before?

A Yes.

Q Will you be good enough --

A Mr. O'Donnell, I should like to call your attention to this item that you have referred to on page 122 of the report, "Factors influencing sales." I want to point out that this was written with no reference whatsoever to this hearing.

Q I know.

A We have realized that we must keep our costs of production down and our quality up, and that there are many individual items entering into the total cost, not just railway freight rates. We as growers in the province realize that we must make every effort possible to cut down all these costs. I should like to read this for the benefit of those who will not read the report, referring to the shipper:

"The dealer, as shipper, is primarily

responsible for the delivered price at which he offers and sells our potatoes. He, of necessity, stands between the grower, the broker, the transportation agencies, and the distributor in seeing that his delivered price to the ultimate consumer is competitive, fair and reasonable. He must devote greater attention to the cost of merchandising our product.

The transportation agencies by charging excessive freight rates, are very definitely injuring the potato industry to the point where the greatest volume of business cannot be developed. Present ocean rates are 400 per cent of pre-war minimum rates, and rail transportation within Canada and the United States is such that sales to distant markets must diminish. A definite fight against excessive freight rates, from whatever cause, must be made if the industry is to survive."

I should like to say a word on that. We have been almost closed out of the Cuban market. We have lost a large proportion of our sales in the Cuban market which we formerly dominated.

THE CHAIRMAN: Q. Lost them how and to whom?

A North Dakota, Minnesota, in that they have been able to ship directly south to New Orleans, and transport their potatoes over. Until this last year or two we were likewise forced to ship by way of New Orleans, and with the increased rates Minnesota and North Dakota have been gradually capturing that Cuban market.

MR. O'DONNELL: Q. Those are American freight

rates which are considerably higher than Canadian freight rates?

A I believe they are; I cannot tell you.

THE CHAIRMAN: I understood Mr. Cunningham to say that New Brunswick potatoes also went down to the Cuban market via New Orleans.

THE WITNESS: Yes, particularly during the war period. Now the boats are becoming more available, and it is possible to make shipments from Saint John.

THE CHAIRMAN: Where do you ship from in that case?

THE WITNESS: Saint John, New Brunswick.

MR. O'DONNELL: Q. By water?

A By water.

Q I think I mentioned this a moment ago, but the Maine potato growers were the people who objected to the Canadian potatoes going into the American market last year?

A Primarily.

Q And that was because Canadian potatoes were actually selling below the American floor price?

A Yes.

Q You were able to get them into the United States by rail at a price that was under the American floor price?

A Yes.

Q And when they found your Canadian potatoes coming in they objected?

A Yes.

Q And as a matter of fact - I asked you this a minute ago, but I don't know that you answered it directly-

you are aware, are you not, that the American freight rate on potatoes is higher than the Canadian freight rate on potatoes for comparable service?

A Yes.

Q Thank you very much. You will be good enough to prepare those tables and send them to the Secretary.

A Yes.

CROSS-EXAMINATION by MR. FRAWLEY

Q What were the growers in New Brunswick paid last year, for instance, per ton? If there were several prices perhaps you could give us an average. Can I find out in your annual report?

A No, you cannot, and I have not got it in federal statistics, but you will come close to it on the basis of the floor price which was promised, \$1.15 per hundred, \$20.60 a ton.

Q The grower realized about \$20.60 a ton?

A Yes.

Q Would that be for the best variety?

A That would be for Canada No. 1 grade.

Q That would be for No. 1 grade?

A Yes.

THE CHAIRMAN: \$20.60 per ton.

THE WITNESS: \$1.15 was the floor price. Some of it sold a little below the floor and some at a little above, but that would be a fair average.

MR. FRAWLEY: Q. And that was for your best variety of potato. What is the name of that variety?

A Green Mountain, Cobbler, or Mountain, would

bring that price. We do not make very much distinction in variety here the same as you do with your Netted Gem or other varieties.

Q Is the Netted Gem a good variety of potato?

A We do not grow it here. Gentlemen, I do not want to let you away with that. Varieties grow well in one district and they do not grow as well in another, and the Netted Gem has never proven a good grower here.

Q What variety do they grow in Idaho?

A One or two of the Russett varieties, Idaho Russett and Netted Gem.

Q In Ashcroft, British Columbia, what do they grow?

A They grow quite a few Netted Gems, White Rose, and I think they have another one.

Q A witness in Calgary told us that the growers in Alberta received \$35 a ton for No. 2 Netted Gems last year.

THE CHAIRMAN: That is all, Mr. Cunningham. Thank you. Mr. Covert, what is next?

MR. COVERT: I believe the last witness on the Province of New Brunswick brief is Mr. Estey in connection with pulpwood and lumber.

THE CHAIRMAN: What about Mr. Matheson on freight rates?

MR. COVERT: That is true. I suppose I thought that might all come together.

THE CHAIRMAN: Bring on whoever you like. There is only a short time left.

MR. BARRY: This gentleman may not take very long.

FRANK D. ESTEY, CalledEXAMINED by MR. BARRY:

Q Your first name is Frank?

A Yes.

Q You reside in Fredericton?

A Yes.

Q You are employed in the lumber and pulp business at times?

A That is right.

Q Do you ship long lumber?

A Yes.

Q Can you tell us what the market is for long lumber at the present time and how you ship it?

A We ship a good portion of our lumber now to the United Kingdom.

Q Yes?

A We ship our own through brokers in Saint John.

Q You know that the order of the United Kingdom this year is only about one-third of what it was two years ago? Is that right, or are you familiar with those figures?

A It is a little more than it was last year, probably about one-third of the year previous.

Q Now, have you been able to ship any lumber into the upper Canada market?

A Some.

Q Pardon?

A Some, not so much this year.

Q What is the trouble?

A I think market conditions.

Q What are the market conditions? What is that?

A They are not able to pay - I would say not able to pay the price we are asking down here. I would say they get their lumber handler, or probably not using so much.

THE CHAIRMAN: Q. Is it because of not using so much lumber or because they get it elsewhere at a better price?

A Probably both.

MR. BARRY: Q. Is it so that you cannot ship lumber into that market and receive a fair price, or is it not?

MR. O'DONNELL: Receive a fair price - that is all a question of relativity.

MR. BARRY: I will ask him what the price is.

MR. O'DONNELL: He said he cannot ship there or sell because the price is too high.

THE WITNESS: Since I have been connected with the lumber business our markets have not been in upper Canada very much, mostly to the eastern United States. We have shipped a certain grade into the Montreal and Toronto markets, but this year there is not much demand.

MR. O'DONNELL: Q. In the eastern United States?

A The eastern United States or upper Canada, either one.

MR. BARRY: ^{Q.} What is the freight rate to the Montreal market from here?

A I think 27 cents.

Q A hundred?

A A hundred.

Q What was it a year and a half ago before the last

increase.

A I think it was 22. I am not so sure about that.

Q What price do you get per thousand? What is the standard normal price? Do you know the prices under the United Kingdom contract?

A I could not quote them right offhand.

THE CHAIRMAN: Do you know that, Mr. Barry?
Can you give it to us?

MR. BARRY: I would not want to give it accurately, Mr. Chairman.

THE WITNESS: I have not the accurate prices here. It depends. This year we are selling our lumber on grade, graded by the Maritime Lumber Grading Bureau.

MR. BARRY: Q. Is it \$56 or \$57 a thousand?

A It would average more than that, I would think, or about that.

Q What was the price per thousand three years ago?

A Well, we are getting a price about \$8 less this year than last year, and I think last year was about the same as it was the year before.

Q \$8 less to the producer of the lumber?

A Yes.

Q What about pulpwood? Do you handle any pulpwood?

A Yes.

Q Where are your markets for pulpwood?

A Our company ships mostly to Livermore Falls in Maine.

THE CHAIRMAN: Q. To where?

A Livermore Falls in Maine.

MR. O'DONNELL: Q. What is the name of your

company?

A Ashley, Coulter Limited.

MR. BARRY: Q. Do you ship any into Quebec?

A During the past year we have shipped to Three Rivers and Gatineau, to the International Paper Mills.

Q Have you shipped any lately?

A Yes, during last winter.

Q When would that be, last January?

A Starting January.

Q What is the price for pulpwood at the present time?

A We sold that f.o.b. cars, and that was a burned-over area, and our average price was \$14.50.

Q F.O.B. cars?

A Yes.

MR. O'DONNELL: Q. Cars where?

A At shipping point. It would be in the vicinity of McGivney.

MR. BARRY: Q. Do you know what the freight is from here to Quebec?

A No, I cannot tell you.

Q You don't know what it is?

A No, we had no interest in the freight rate. We sold it f.o.b. cars.

Q What is the weight of a car of pulpwood?

A It would run from 3,000 to 5,000.

THE CHAIRMAN: It is given in your brief that a car of pulpwood weighs about 4,000 pounds.

MR. BARRY: I understand that wet pulpwood goes up to 5,000, and when it is unpeeled, and dry peeled it

may go down to 3,000.

THE WITNESS: That is right.

MR. O'DONNELL: Q. And burned over?

A Burned over about the same, 3,000.

-Page 4342 follows-

COMMISSIONER INNIS: Q. This is 3,000 rather than 4,000?

A. No, I would not say that the average would be 3,000. That would be dried peeled pulp.

Q. Dried peeled pulp would be 3,000?

A. Peeled with the bark off.

MR. COVERT: Q. Mr. Estey, on page 15 of this brief, at the end of the second paragraph, it reads:

"A hardwood producer states that he was unable to ship his low end hardwood into Montreal because of the increase in delivered cost caused by the 21% increase."

Do you know of any such case?

A. Low grade hardwood?

Q. No; low end hardwood, he says.

A. Well, it would be low grade.

Q. That would be culls, would it not?

A. It would be culls or No. 3 common.

MR. O'DONNELL: Q. And there is not much market for that?

A. No, there is not much market for that. It is used in the flooring plants. That is what it is used in.

MR. COVERT: Q. The 21% increase in that case, I take it, would mean that the market is so small, the margin of profit would be small, and the price would be small, and it would not take the 21% increase. Is that the point?

MR. O'DONNELL: I do not think the witness said that.

THE CHAIRMAN: It depends on what Mr. Estey would say.

MR. O'DONNELL: My learned friend Mr. Covert put a very leading or suggesting question there.

MR. COVERT: I thought he did.

THE CHAIRMAN: What does the witness say now?

THE WITNESS: The price is very small. I do not believe they could possibly get it in the market with any increased freight rate because the price is very small anyway, and there is no market for it.

MR. COVERT: Q. Now, generally speaking, in connection with long lumber, I want to ask you, first; it says in the third paragraph of the brief, for example, in the first line of that paragraph: "215 M f.b.m." Those figures are all in millions, I take it, millions of board feet?

A. 215.

Q. Yes; 215 million. That was, apparently, the cut for 1948?

A. What page is that?

Q. Page 15 of the brief, in the third paragraph, dealing with long lumber, where you say:

"It is estimated that of our cut for 1948
of 215 M f.b.m. . . ."

Those are millions?

A. I would say it was.

THE CHAIRMAN: Q. F.b.m.; what is that?

MR. COVERT: That means "feet board measure."

THE CHAIRMAN: Millions of feet, board measure?

MR. COVERT: Yes.

Q. Isn't that a mistake? F.b.m. usually means thousands?

A. Yes, it is evidently a mistake. It should be "millions" in there.

Q. Yes; and the same would apply to the other figures; for instance, the "146 M was exported."

THE CHAIRMAN: And not thousands?

MR. COVERT: No; they are all millions in that paragraph.

THE WITNESS: Yes.

MR. COVERT: Q. Now, Mr. Estey, how do those figures in the third paragraph, being a total production or total cut and export and local consumption of shipments to central Canada --how would those figures compare with the years prior to this last war?

A. I would not be able to tell you.

Q. You could not tell me?

A. No.

MR. BARRY: The Maritime Lumber Bureau could give you that, their Mr. Bigelow.

MR. COVERT: Q. Could you tell me, Mr. Estey, whether or not the long lumber production during the war in this province increased greatly or not?

A. I would say that it did.

Q. Is it still at a pretty high level?

A. It is reduced somewhat, this year.

Q. It is reduced somewhat this year, but it is still at a level higher than prior to the war?

A. Well, I would think, probably, it was.

Q. Now, can you tell me whether or not trucking plays an important role in the shipment of long lumber in this province?

A. Oh, yes.

Q. It does?

A. Yes.

Q. In competition with the railways?

A. Oh, I do not think so much, probably, in competition with the railways.

Q. So the role it plays is in bringing the lumber up to the railways?

A. Yes.

Q. Do the trucks provide much competition to the railways?

A. Some, but probably not much.

Q. Not much; and what about competition from water? Is lumber shipped much, for instance, to the Montreal market?

A. No, not from this section, not that I know of.

Q. Your chief competitor in the central Canadian market would be production from the central provinces themselves; is that correct?

A. I would think so.

Q. And in your own business, have you been exporting a major part of your long lumber?

A. Yes.

Q. And when I say "exporting" it, I mean outside of Canada?

A. That is right.

Q. And that market, you are afraid, is going to disappear?

A. Well --

Q. Perhaps I should not say "disappear," but rather diminish?

A. We would hope not. I would not say that it

would. There are probably other things entering into it that we do not know.

Q. Do you think there is a possibility of continuing to hold your export market?

A. I would think so. The United Kingdom does take the most of our lumber right now, and as to the United States, they are in more or less of a depressed condition right now and are trying to get lumber at reduced prices.

Q. But you are not worried much about your export market; that is correct?

A. No.

Q. You are not highly worried about having to expand your market in western Canada?

A. The company I am with has never had very much market in central Canada.

Q. Your main market has been an export market?

A. That is right.

Q. Do you sell much on the domestic market, that is, in New Brunswick; does your company?

A. Yes, quite a lot.

Q. It does; and is there any indication of that slackening?

A. Oh, I would say there is probably a little less than last year.

Q. Prices, however, have fallen off, have they not?

A. A little.

Q. Could you give comparative prices for the last few years on one standard type of lumber that you sell?

A. I would say that the price is down about

\$10 to \$15 from last year.

Q. \$10 to \$15 per thousand?

A. Yes.

Q. That is, this year from last year?

THE CHAIRMAN: \$10 to \$15 per thousand?

MR. COVERT: Yes.

THE CHAIRMAN: Per thousand board feet?

MR. COVERT: Yes.

Q. What two prices are you comparing? Was it 72 last year and 57 this year, or something like that?

A. Prices run according to grade and size.

Q. Yes. Let us take a No. 1 grade?

A. The average would probably be about from 65 to 75 last year; while this year it would be about \$15 less. That is, f.o.b. cars.

Q. Have you always shipped f.o.b. cars in your business?

A. No, not always.

Q. You sometimes quote a delivered price?

A. That is right.

Q. And I suppose that depends, usually, on market conditions?

A. Yes.

Q. What are you quoting today, delivered prices or f.o.b. prices?

A. We try to sell f.o.b. at any time.

Q. Are you still able to sell f.o.b., in the main?

A. Sometimes. It depends on the buyer.

MR. COVERT: That is all.

THE CHAIRMAN: We shall adjourn now.

---At 4.45 p.m. the Commission adjourned until Wednesday, July 20, at 10.30 a.m.

A.R.

Canada
ROYAL COMMISSION
ON
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ROYAL COMMISSION ON TRANSPORTATION

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1. The first part of the report is a general introduction to the subject of the study.

2. The second part of the report is a detailed description of the methods used in the study.

3. The third part of the report is a discussion of the results of the study.

4. The fourth part of the report is a conclusion of the study.

5. The fifth part of the report is a list of references.

6. The sixth part of the report is a list of figures.

7. The seventh part of the report is a list of tables.

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11. The eleventh part of the report is a list of acknowledgments.

12. The twelfth part of the report is a list of abbreviations.

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14. The fourteenth part of the report is a list of units.

15. The fifteenth part of the report is a list of definitions.

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ROYAL COMMISSION ON TRANSPORTATION

FREDERICTON, N.B.
WEDNESDAY, JULY 20, 1949

THE HONOURABLE W.F.A. TURGEON, K.C. LL.D. Chairman

HAROLD ADAMS INNIS Commissioner

HENRY FORBES ANGUS Commissioner

- - - - -

G. R. Hunter,
Secretary.

P. L. Belcourt,
Asst. Secretary.

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THE CHAIRMAN: Have we finished with Mr. Estey?

MR. COVERT: Yes, I think we have finished with Mr. Estey, and I think the next witness is Mr. Colin Mackay.

THE CHAIRMAN: And what is the subject?

MR. COVERT: Lumber.

THE CHAIRMAN: The New Brunswick case again?

MR. COVERT: Yes.

COLIN MACKAY, called

EXAMINED BY MR. BARRY:

Q. You are Mr. Colin Mackay and you reside, Mr. Mackay, in Rothesay, New Brunswick?

A. Correct.

Q And you are President of the Mackay Lumber Company?

A. Right.

Q. And you are an officer of some lumber associations, and have been; would you tell the Commission what associations you have been an officer of?

A. Well, as far as the Maritime Provinces are concerned, I am a Director of the Maritime Lumber Bureau, and have been since its inception something over ten years ago. At the present time I am President of the Canadian Lumbermen's Association. I have been a Director of that on the international trade end of it for a matter of twelve years.

Q. You have knowledge of the market for lumber, maritime lumber, over the past many years -- how many years?

A. Well, since 1907; that is when I started.

Q. Have you any approximate figures as to the production of lumber in New Brunswick?

A. The production of lumber in New Brunswick will vary up and down considerably according to how the markets are, naturally. The production overhead has been falling since 1910 anyway as more of the timber lands and more of the wood was used in the manufacture of pulp and paper.

Q. Where are the markets for New Brunswick lumber now?

A. At the present time.

Q. Yes.

A. England, Ireland, Canada, the United States. Before the restrictions came into effect considerable was going to South Africa. A minor amount was going to the continent of Europe. That was pretty well cut off due to the financial restrictions. Then there is a small market all over the world. My own firm is sending some to Hong Kong, Gibraltar, Malta, the United States, Ireland, Great Britain and Canada.

Q. Is much lumber shipped into the Central Canadian provinces?

A. Well, the market at the moment is weak, and I should say the movement at the moment is not as big as it was last year, considerably smaller. During the war, outside of a certain free quota which was bought by the British Ministry Supply, which is now the British Board of Trade, the Dominion Government gave to exporters selling to Britain a free quota on which to ship lumber. They could ship up to a certain quantity. During the bulk of the control period if you

shipped two-thirds of your product to Canada you got permission to export the balance of the product. In other words, it was two to one. That was altered some time about two years ago or eighteen months ago to one to one. That is, if any person who has not a free export quota wants to ship to the American market he has to ship an equal quantity to Canada.

Q. That prevails at the present time?

A. That is still in effect. We have done our best to get it lifted, due to depressed markets, but it is still in effect.

Q. During the war how much lumber was shipped to England from the Maritimes?

A. There were contracts varying from year to year, between 150 and 160 million feet. The first break was in 1947, when they started to get hard up for dollars; that was cut to 60 million feet; this year it was cut to 130. When I say Maritime Provinces, that does include a small percentage from eastern Quebec. The Maritime Provinces, Gaspe and the lower St. Lawrence are usually taken in as one shipping area.

Q. What is the price as compared to three years ago?

A. The highest the British paid was in 1947. 1948 was the same. This year the price dropped, and, while you could not without a mass of figures get it definitely, the drop would be 9% in value -- that is taken per unit of a thousand feet.

Q. Has any contract been arranged for next year, or what is the situation?

A. No contract has been arranged with Great Britain

for 1950. I don't know if anybody saw the paper last night, but when I got home I was called about the situation by the press. My reply was that Stafford Cripps himself did not know about next year, so I certainly don't. In answer to that, nobody knows. It is the financial position. I did not think this contract would be put through this year. I am speaking more or less on assumption. Governments don't give these things away. If there had not been pressure from Ottawa, on account of the situation in the lumber business in the Maritime Provinces, I do not think the contract would have gone through this year, not for the quantity that did -- a smaller quantity.

Q. What would be the effect on the lumber market if the United Kingdom did not contract for a similar amount next year?

A. The production will be very much reduced. Production in the Maritime Provinces to-day I should say would be at least 25% under 1947, probably more, if it had not been for the British contract let this year. Normally the British place their contracts in the autumn, in November or December; this year it was not let until February. If that contract had not been let the production certainly would not have been over two-thirds of 1947.

Q Do you know what proportion of the lumber goes to the Central Canadian market, speaking of your own business or the Maritime Lumber Bureau?

A. It is practically impossible to get that, sir, because there are quite a few of these sorting yards, re-manufacturing mills and one thing and another in Quebec.

A lot of stock from New Brunswick and Nova Scotia goes into those mills for reconditioning and re-sorting and so on, and it is impossible for anybody to tell what percentage of that is used in Canada and what is resold across the border in the States.

Q. Where would the lumber that would compete with New Brunswick lumber in the Ontario or Quebec market come from?

A. In Quebec, and a certain amount in Ontario. The competition is quite severe in Ontario in the manufacturing districts to-day from some of our friends further west. The Alberta woods are coming in. The production of wood in that area increased considerably during the war, and they are now finding the same difficulties we are, simply to get rid of it. If anybody from that district is here, I think they will bear me out on that remark.

Q. The freight rate charge on shipments of lumber from New Brunswick to the Central Canadian market, are they passed back to the producer here or the broker, or are they added on to the cost of the lumber?

A. That is a question, sir, that you could never answer. It all depends on the market. If you have a seller's market, as you had during the war, in spite of ceiling prices and everything else, the buyers in most cases paid what they were asked. To-day the seller takes what he can get.

Q. The price is fixed at the market?

MR. O'DONNELL: Supply and demand.

THE WITNESS: It is the old question of supply and demand. No matter what regulations or governments

or other factors enter into it, that in the end governs.

MR. BARRY: Q. Do you know the freight to Montreal or Toronto from New Brunswick

A. From New Brunswick?

Q. Yes.

A. I think it is 28¢. Toronto is 34 or 35.

COMMISSIONER INNIS: Q. You do not know the comparable rates from Alberta?

A. I have not got them, sir, no. They would be considerably less. As I said, the production of Alberta stock has increased a great deal. They are going into the manufacturing districts in the States and in British Columbia, and on top of that of course the Prairie Provinces and British Columbia have developed by way of population for the previous 20 or 30 years much faster than the Maritime Provinces; they have had a bigger local use for wood.

MR. O'DONNELL: Q. I take it you mean the New Brunswick rate was considerably lower than the Alberta rate?

A. Yes.

MR. O'DONNELL: Just to keep the record straight.

MR. SINCLAIR: I think it might be helpful to put it on the record at this time, that Edmonton to Toronto, 50,000-pound minimum was 94¢ as against Chipman to Toronto, 40,000-pound minimum, 36¢.

MR. BARRY: Q. Is there lumber produced in Alberta that competes with New Brunswick lumber?

A. Well, I am not really in a position to make a statement about that. I know lumber is produced in northern Alberta; what the production is there I do not know.

It increased materially during the war, and just recently there is much more severe competition from that area in the Ontario market than there was. Mind you, I am relying on what the buyers up there tell us; the buyer of course uses every argument he can.

MR. O'DONNELL: You are not in that market.

MR. BARRY: Q. What are the types of lumber shipped into the Central Canadian market?

A. From here?

Q. Yes; spruce or pine?

A. As far as the Montreal area, Quebec, manufacturing districts of Quebec, usually the lower grades of spruce for carcasing purposes -- they may not use that term here -- for cheap house building, and in Ontario there is a certain amount of that goes in. The larger percentage of white pine from this area goes in there.

EXAMINED BY MR. COVERT:

Q. Just a couple of questions, Mr. Mackay. I take it that you feel that there may be danger, substantial danger, of losing the export markets for lumber which you now have?

A. We are losing them rapidly now.

Q. Is the answer to a problem of that kind from the point of view of the producer that he curtails his production or that he seeks central Canada as his market, or is it a combination of both?

A. It is a combination of both. Naturally he will seek other markets ; if he cannot get them on a profitable basis he curtails his production.

Q. I suppose you have been faced with similar situations in the past, for instance after the --

A. After the first war it was very much the same.

Q. And can you tell us approximately what happened there? Did the production of lumber in New Brunswick go away down?

A. Yes, it went away down. Generally speaking, after the first war, the conomy of North America stayed up better than the economy of Europe and England, and for some years the bulk of the stock from this section of the country went into the New England market and into the United States .

Q. Went into what?

A. New England, United States.

Q. The New England market in the United States?

A. Then when the collapse after 1929 came in this economy, and the economy of England really recovered faster than the economy of North America, there was a period from there up to you could say the present time, the tendency of the wood was to go to England.

Q. Now, is it a fair question to ask you whether freight rates in themselves play an important part in sustaining a market in Central Canada, when your export market has disappeared

A. Oh, yes.

Q. That is a very important factor?

MR. SINCLAIR: He did not say that.

MR. COVERT: Just a minute; I am asking him.

MR. SINCLAIR: Putting it strongly to the witness -- "very important".

THE WITNESS: Well, you said, very important.



Anything that helps to move a commodity from one section of the country to another, naturally the lower that costs the better for the producer. Whether I would term that as being serious or not, this last raise in freight of 20% or 21% -- I think at Toronto it went up from 27 or 28 to 36 on this last raise; it would be about \$2.50 a thousand on rough lumber, and \$2.50 a thousand for a manufacturer is a fair profit, undoubtedly.

MR. COVERT: Q. That is what I am coming to, Mr. Mackay. Is that such an important factor in the total over-all cost of the product, an increase for example of 21%?

A. It is a matter of comparison, sir. You ask whether it is an important factor. It is not nearly as important as would be losing the British market, for instance, but it is a factor.

Q. Is it a factor that will cause the producer down here to curtail production?

A. Yes.

Q. It is?

A. Not to the same extent as losing the other markets would be, but it is a factor. I would not say it is a large factor, but it is a factor.

Q. Does it limit your field or your area of --

A. I will have to be a bit more technical on that. The Province of Quebec area takes a great deal of the low grade production, the lower grades of the wood. Now, I should estimate on the average spruce cut in New Brunswick that will run 25%, of which probably half would be sold locally in the Maritime Provinces and the other half go into that area. Well, if you take

12 to 15 per cent out of a cut and say to all intents and purposes it is unmarketable, it puts the manufacturer in a very serious position, undoubtedly.

Q. When you lose your export market here, I suppose generally that is the situation in the other lumber-producing areas of Canada?

A. Normally speaking Canada will produce say five billion feet a year. Naturally during the depression I think it went down to three and a half billion; during the war it was up over five. Normally speaking, 50% of that is export, so what affects us will undoubtedly affect -- I am not talking against the other areas of Canada; what affects the timber trade in New Brunswick and Nova Scotia will undoubtedly affect the timber trade in the rest of Canada -- can't help it.

(Page 4360 follows)

Q What I am coming to, Mr. Mackay, is this, that usually their markets are somewhat similar to those in New Brunswick?

A Yes.

Q And when New Brunswick is affected they are likewise affected?

A Right.

Q So that I suppose competition does become much keener in Central Canada?

A Correct.

Q And that probably has an effect on reducing prices?

A Yes.

Q And hence I suppose the freight rate becomes more important?

A The freight rate?

Q Yes.

A Yes.

Q Because the lower the price of the product the more important the freight rate is?

A Correct.

THE CHAIRMAN: Just a minute. In so far as a general increase is concerned it applies to all shippers through Canada.

MR. COVERT: Yes.

THE CHAIRMAN: Not only to New Brunswick.

MR. COVERT: That is right.

THE CHAIRMAN: I mean all competitors in that market have to put up with the same general increase, all competitors in the market.

THE WITNESS: Quite correct, sir. May I elaborate just a minute on that?

THE CHAIRMAN: Yes.

THE WITNESS: The difference there between this country and the rest of Canada, with the exception of the British Columbia seaboard and certain areas in Quebec, is that the economy of New Brunswick and Nova Scotia, the basic economy, is largely based on wood, either by way of lumber or pulpwood, pulp and paper, and one thing and another, and if those markets are very badly depressed here it has a severer effect on the general economy of this area of the country than it has on others.

THE CHAIRMAN: If markets are depressed?

THE WITNESS: Yes.

THE CHAIRMAN: Does an increase in freight rates cause the markets themselves to shrink because the lumber becomes more expensive?

THE WITNESS: No, sir, but it makes it harder for the producer to get his share of a depressed market, undoubtedly.

COMMISSIONER ANGUS: Q. Is there any suggestion that when the 21 per cent increase was granted that your loss of markets should have been foreseen at that time and taken into account?

A If they did not foresee it they were not watching international conditions.

Q Could that have been foreseen at that time?

A Well, as I mentioned before, I happen to be with the Canadian Lumbermen's Association, and we have been

pressing on the government ever since the termination of hostilities. I have had several arguments with Mr. Howe and Mr. Abbott and some of the others on it. That was more in connection with getting these restrictions on export lifted. They could not help us.

Q Is it the suggestion that the Board should foresee market conditions, forecast them, and allow for them, and not forecast increases in railway tariffs?

A The Board of Transport Commissioners must act on facts. I do not see that they can act on forecasts very well. I quite agree with you there. I do not see how the Board could forecast something that might alter in the course of the next few months to change the picture altogether. For instance, we have one situation partly in effect now. You know the situation on wheat. A lot of this wood for European countries is paid for under E.C.A. funds today. The producers in the western United States tried to get Mr. Hoffman to declare lumber surplus. The minute it is declared surplus E.C.A. funds cannot be used for purchases outside of the United States. He did not go that far, but he did go to the extent of saying that on lumber purchased under E.C.A. funds that the American producers and shippers must have a chance to bid on it, and if their quotations were lower than they would get - I don't know what the percentage is, but they get a percentage of the business. That happened on the last sale from British Columbia, the last sale from Canada to Europe.

Q Is it the suggestion then that since conditions have become worse at the present time some change should

now be made? Is that the contention?

A Well, I did not make this brief. I was called here to try to enlighten you on the conditions in the lumber business. As I said before, the economy of this country is largely based on wood. It is gradually changing but it is largely based on wood. If the economy of the wood trade goes to pieces the economy of eastern Canada is going to pieces faster than anywhere else. Anything that helps the lumber or pulp or paper or pit wood business in eastern Canada is a great benefit. Anything that acts against it, even if it is small, is a detriment to the country as a whole.

I was talking about these E.C.A. sales. If we had not got the English contract through when we did, and we only got it by cutting prices when other people would not do so, we would have been up in the air today. We could not help but be. Is that what you wanted?

Q Yes, thank you.

MR. COVERT: Q. What I was coming to was this, that although the 21 per cent increase may be the same all over my understanding is that the main competition to lumber entering the Central Canadian market is from Ontario and Quebec where there is a short haul as against a long haul, so that although the increase may be the same percentage-wise, the freight rates do not mean as much on the short haul as on the long haul.

A I was in Montreal just recently, and there is a lot of lumber being trucked into Montreal which, of course, is the biggest consuming area in eastern Canada. It is being trucked from surrounding areas, chiefly up

around the Lake Saint John district. That was being trucked in by expensive motor trucking. If you take into account the fact that it has to be trucked from the mill a certain distance to the railway and loaded, and when it reaches Montreal at the siding it has to be taken out of the car and taken to the buyer's yard, whereas in this case it is trucked from the pile up in the country right into Montreal, the cost of trucking that lumber was not as much as it would cost the mill to take the lumber three or four miles to the railway, load it there into cars, and then have to take it out of the cars in Montreal.

Q Have you any idea of the amount of lumber that is trucked to Montreal from originating points in Quebec, how extensive that is?

A I do not know. It would take something to get that.

Q Have you any suggested way as to how one might find that out?

A If they will tell you, the Retailers Association in Montreal. Whether or not they will let it out I do not know.

MR. O'DONNELL: Q. The trucking companies themselves?

A That is one difficulty. The so-called trucking companies do very little of this. It is mostly trucks used in the country, and they just work, individual owners in a great many cases. We had the same thing in this country during the depression when lumber was very cheap. For local delivery in Saint John we were trucking lumber from Fredericton. The firm was moving lumber by motor

truck from Fredericton to Saint John instead of by rail.

THE CHAIRMAN: Are there any questions?

MR. O'DONNELL: Possibly just one.

CROSS-EXAMINATION by MR. O'DONNELL

Q From what you say, Mr. Mackay, with respect to that lumber that is trucked in Quebec, even if you got your lumber up there for nothing you would still have to meet competition in the Quebec market?

A Yes, we would.

Q As you said to the Chairman, all parts of the country are affected by freight rate increases, as well as New Brunswick?

A I modified that. The lumber business in all parts of the country is affected by the same rate, but the general economy would be more effected in this district.

Q You mentioned Alberta was shipping wood into Ontario and Quebec /?

A Yes.

Q And the effect of the last increase on them was ^{more} considerably / than it was on you?

A Quite.

Q The computation I have is that from Chipman to Toronto, with a 40,000 pound minimum, the increase was six cents /?

A Yes.

Q Whereas on a shipment from Edmonton to Toronto, with a 50,000 pound minimum, the increase was 16 cents?

A Quite.

Q Can you give the Commission any idea what the

production of New Brunswick was in the pre-war years before the United Kingdom contracts and these special war circumstances?

A In New Brunswick at the bottom of the depression it fell quite low. I notice that in this brief they give it as 215,000,000. In my opinion, that is conservative. In the depression it fell very low. It was starting to come up again quite nicely during the thirties, and, of course, it expanded very much since the war started.

Q What would you call "quite nicely"?

A Oh, it must have doubled.

Q How many feet would that be?

A I have not got that accurately.

Q Can you get that for me?

A I can give it to you right now. In 1947 the Maritime Province production was within a few million of 645,000,000 of which I estimate New Brunswick was about 48 per cent.

Q That is Canadian production?

A No, that is New Brunswick and Nova Scotia.

THE CHAIRMAN: Q. Does that mean 645,000,000?

A Yes, superficial feet of lumber.

COMMISSIONER INNIS: Q. 645,000,000 superficial feet?

A Yes, of which somewhere between 45 and 50 per cent is New Brunswick and the balance Nova Scotia. There again on the question of markets, there is not as much pulp wood or as many pulp mills in Nova Scotia. If the lumber business gets depressed and the pulp business is getting good, more of the logs in this section go into pulpwood.

Q That figure is lumber?

A You will find I am not more than a few million out.

MR. O'DONNELL: Q. That figure comprises lumber and pulpwood?

A That comprises sawn lumber only. They give 215,000,000 in 1948.

Q What page is that?

A On the first page in the lumber part of the brief, page 15. Under the heading "Long lumber" they give 215,000,000. I say I think that is conservative. It was well over 300,000,000 in 1947.

Q Would it be possible for your Association to prepare a little table showing production in New Brunswick since 1920?

A I don't know as I can get it from 1920, but I can get it for you for the Maritimes - the lumber bureau was formed in 1937 or 1938. I can get it from them. The government of New Brunswick had that, but in my opinion they were always low because they arrived at their figures by taking the Crown land and doubling it. That was quite correct before the pulp mills were built, but since that --

Q It might be possible that Mr. Barry could procure that information from the government authorities themselves. Mr. Mackay indicates that he thinks they have those statistics.

A I can get it for you for the last ten years.

THE CHAIRMAN: Going back how far?

MR. O'DONNELL: I thought 1920, to give the Commission a fairly broad picture.

MR. BARRY: I will get that if it is possible.

THE WITNESS: We will get that back as far as possible.

THE CHAIRMAN: We have this estimate for 1948 in the brief, 215,000,000 feet , and Mr. Mackay thinks that is not enough, that it should be at least 300,000,000.

THE WITNESS: I would not say 300,000,000 in 1948.

THE CHAIRMAN: Where are these figures found? Are there any more dependable figures?

MR. O'DONNELL: I do not know where this came from.

Q You did not write this brief?

A No, I did not write the brief.

Q You don't know where the figures came from?

MR. BARRY: They are estimates that were arrived at after consultation with the Maritime Lumber Bureau and the government department.

THE WITNESS: They may be correct, but the great trouble is there are so many small mills around the country cutting lumber in small quantities that no government department or association has any track of them at all.

MR. O'DONNELL: Q. You gave us the 1947 production figure at 645,000,000 superficial feet. Can you give us a comparable figure for 1935 or 1938, so that we will have the picture of what it was before the war?

A I could not, but I should say 400,000,000 - when did you say?

Q 1935, 1936.

A We were pretty well in the depression. I should

say about 400,000,000.

Q And then 1938, for instance?

A Production started to increase from about 1934 on.

Q And by 1938 it would have reached about what?

A About where it is today.

Q About where it is today, and today you still have these war contracts?

A With Great Britain?

Q Yes.

A We have it this year.

Q And this year you estimate that will be 130,000,000?

A Yes.

Q So that the figure today minus the war contract would give us about what your production was before the war?

A Yes, and very hard to sell at that.

Q If your Association has any figures on that --

A I will get whatever I can for you. Will I put that through Mr. Barry?

MR. BARRY: Yes.

MR. O'DONNELL: Q. I take it from what you have said that British Columbia, you would assume, has the same type of trouble that you are experiencing in so far as the United Kingdom market is concerned?

A Yes, except they fell into it a bit later than we did.

Q You got a better --

A We got a better deal this year. They got a better one last year.

Q As to this low grade lumber that you ship into Quebec, Alberta does not compete with you for that part of the market, does it?

A I should say to a very minor extent.

Q And in so far as Quebec is deficient in that particular type of lumber you are the source of supply for it?

A Well, Quebec province.

Q There is a lot of lumber there, too?

A Yes.

Q Can you give the Commission any idea of what the increase in the cost of labour has been since 1937 and 1938? It is considerably higher now than it was then?

A I am not an operator, but I would say it has tripled.

Q Tripled?

A Over tripled. It tripled in cash outlay, and the efficiency depreciated by a third.

Q When you say you are not an operator you mean you are not a woods operator yourself?

A No, we are merchants and brokers.

Q Merchants and brokers. You buy from the operators. For instance, we had Mr. Estey here yesterday. You buy from his company?

A We do most of their overseas business, not locally.

Q Yesterday you were absent, and you were supervising the loading of a ship in Saint John, were you not, for the overseas business?

A Yes, sir, I have got one there and three due.

That is the reason I had to go home.

Q So that you are still shipping overseas?

A The British government contracts, as far as they can be, will be shipped pretty steadily from now until they get cleaned up. They are supposed to be cleaned up around September, but with these strikes and the tonnage situation they will probably run pretty well into the autumn.

Q I take it, Mr. Mackay, that you would be familiar with the fact that freight rates in Canada are considerably lower than they are in the United States, railway freight rates?

A That is one of the very depressing features about it. We are practically shut off today from the New York area.

Q But it is not due to the freight rate, because your freight rate is considerably lower than it is in the United States?

A Yes, it is, but while your water rates, ocean transportation, went up considerably it is now falling very rapidly. I don't know what the intercoastal rate is. I have not seen it but it is cheaper today.

Q You say you are shut off from the New York market. You mean by reason of the --

A Stock coming in from Washington, Oregon and the Carolinas.

MR. O'DONNELL: That is all, thank you, Mr. Mackay.

CROSS-EXAMINATION BY MR. SPENCE

Q I understood you to say that you were sending

your lower grades of lumber to the Montreal market?

A They normally take quite a bit.

Q Where do the high grades go?

A The better grades this year in spruce, the larger percentage of them, are going to England, and from northern New Brunswick, in that area, a great deal of them have always gone to the American market, the United States.

Q Are prices for lumber higher in the United States than in Canada?

A Well, that is a difficult question to answer. Prices in the United States bought on a delivered basis are certainly higher, but I doubt today if the f.o.b. price here would be very much higher except it would be on a lot of this dressed lumber where the weight has gone down very much.

Q On the dressed lumber?

A Yes.

Q And that, of course, is high grade?

A High grade. As to the Quebec mills like Price Brothers and Frasers that have established a reputation for good will and good output and good grade, and that have American connections, I think the bulk of their stuff is going down there.

Q How does the quality of the lumber that you ship, for instance, to the Montreal market compare with the quality that is produced in Quebec?

A Oh, it is very good, but there are certain things; these British government contracts, for instance, are on a grading basis and they take up fourth and better, so that the fifth and sixth have got to be sold in Canada.

THE CHAIRMAN: Q. What is that?

A The British lumber contracts this year run fourth quality and better which means that the fifth and sixth grades have got to be sold in Canada.

MR. SPENCE: Q. Is there any possibility that any difficulties that you may be having in marketing your lumber in Central Canada are due to the grade of lumber that you are attempting to market there?

A Not the grade, no; as far as size and specification of the lumber, yes.

Q Size and specification.

A The lumber in this country, due to 150 years of fairly heavy cutting, is smaller. Some areas in Quebec have the same trouble, but when you get back in the woods of Quebec they have still got big timber.

Q The freight rate on low grade lumber and high grade lumber is the same?

A It is the same until you get up to what you chaps in the railways call "woods of value". I have never found out what that means.

MR. SINCLAIR: Limed oak.

MR. SPENCE. Thank you, Mr. Mackay.

THE CHAIRMAN: Are there any other questions?
Thank you, Mr. Mackay.

MR. COVERT: I understand that finishes the submission of the Province of New Brunswick, and we shall proceed where we left off with Mr. Rand Matheson in Halifax.

THE CHAIRMAN: That is the Maritime Board of Trade?

MR. COVERT: The transportation commission of the Maritime Board of Trade.

RAND H. MATHESON, recalled

THE CHAIRMAN: I think you got down to page 126, did you not?

MR. COVERT: I think I had finished Part 2, and had got down to Part 3, page 124, Mr. Chairman.

THE CHAIRMAN: Yes, "Capital Structure." That is where we stopped.

MR. COVERT: I understand from Mr. Matheson that there are a few points he wishes to clear up.

THE CHAIRMAN: You mean, in the preceding part?

MR. COVERT: Yes; a few questions as to which he said he would like to have time to consider them.

THE WITNESS: Mr. Chairman and members of the Commission: at page 3894 of volume 20 of the transcript of evidence, a question was directed to me by Mr. Sinclair, apropos of the rates on potatoes from United States points where they prescribe maxima. We wanted to check the references. Now we have checked the tariff, as published by the United States railroads, the so-called blanket tariff; and at page 79 of the "Tariff of Increased Rates and Charges X 162-B, and X 166-C, Item 1125," the Ex Parte 162-B increases, applying Table 2, 15% increase, maxima 13¢ per 100 lbs.

I think I said they were something like that. Ex Parte 166-C, increase applying to tables 5, 7, 9 and 11, as the case may be, shown opposite C, in Item 10, a maxima of 20¢ per hundred pounds.

And, as regards Ex Parte 168, temporary increases, page 16, Item 60, the maxima increase, rather than an increase, was held down to a maximum of 6 cents per 100 lbs.

MR. SINCLAIR: Q. Just a minute. Could you

tell me whether that application for the maxima was part of the application of the roads themselves?

In many cases they did ask?

A. If I remember correctly, in a number of instances the railways, in their original application, asked for maxima on various commodities; but it was not always adopted. Whatever the maximum, the Board prescribed different maxima in different cases, according to their cases.

Q. And they asked for a maxima on potatoes?

A. I do not remember. I would have to check back for the details as to that information. It would be readily available in connection with the decisions.

Q. It does not matter. I just thought it might as well be on the record.

MR. O'DONNELL: Q. The Chairman got the inference that the I.C.C. refused to allow a percentage increase; whereas, the fact might be that the roads themselves had asked for a flat, rather than a horizontal increase?

A. There is a very big question there which was discussed in our own cases before the Board, as to the interpretation.

I have had some correspondence with the I.C.C. in that regard and, if necessary, I could read it into the record. It has to do with the interpretation of the application of the maxima.

MR. SINCLAIR: Q. Just a minute. It is not clear, on account of the numerous roads down there, what the position of those carriers was. They have, in many cases, historically, applied for maxima

increases on behalf of their own particular circumstances. Such conditions have not been applicable in Canada. There often are varying conditions in Canada. I think I stressed this point in my brief with respect to the two transcontinental railroads, vis-a-vis the situation in the United States with their network of railroads, with each one looking out for the interests of its own producers on its own lines.

There are many references I could give you as to the principles which were followed by the I.C.C.; and it is referred to in Appendix 1-B, of volume 2, where the Commission itself, looking at the wide distribution over the country take into consideration not only the revenues of the railways, but also the position of the producers and consumers.

Q. I suggest to you that you cannot generalize on this application. You must take the application and look at what the application of the railways was, and what the Commission did with it. A particular generalization that that percentage increase was not allowed may be subject to different views in regard to particular interests in each case. I think you must look into the whole picture.

MR. FRAWLEY: Can we expect the Canadian Pacific to tell us why the application of maxima on long hauls is out of the question?

MR. SINCLAIR: The most practical way to secure the answer is to say: it was necessary for the continued efficiency of the railways that there be a flat percentage increase; and the Board so held at

page 65 of its judgment.

MR. FRAWLEY: That is not what I am asking at all.

MR. O'DONNELL: I thought we were making it clear that what appears at page 3894, and the impression which the Chairman was apparently allowed to have was not quite the way the matter developed.

THE CHAIRMAN: What impression is it that I am supposed to have? What are you talking about?

MR. O'DONNELL: The impression, apparently, which you had as evidenced by your words.

THE CHAIRMAN: To-day?

MR. O'DONNELL: No; last week when we were speaking of the Interstate Commerce Commission and Ex Parte 166.

Your lordship said -- or I took it, by way of a question to Mr. Matheson:

"The Chairman: Q. They would not allow a flat increase on potatoes?

A. (Mr. Matheson) That is right; that is what the Interstate Commerce Commission did in the United States."

I wanted to make it clear that it was not quite the whole story, and that the application had, in fact, been for a flat increase on potatoes. But the I.C.C. allowed 13 cents, which was the amount contained in the first application for an increase on these potatoes, vegetables, fresh or green, and so on.

The maximum asked was for 13 cents, but

afterwards an application was made for 20 cents, and later on another application for 22 cents per one hundred pounds. The I.C.C. granted the express request of the railways to the extent of 13 cents which they themselves originally had asked for.

THE CHAIRMAN: Did they abandon the others?

MR. O'DONNELL: No, I do not think so, but the I.C.C. said that whatever they had originally asked for, which was 13 cents, that they could get the 13 cents.

MR. FRAWLEY: Before the Board of Transport Commissioners, we in the long-haul part of the country took the position that there should be an application of the maxima rule. All I suggest to my friends and the railways is that there be something submitted to the Commission much more considered than what I might call, the chance remarks by my learned friends Mr. Sinclair and Mr. O'Donnell this morning.

I would like the railways to tell this Commission whether it has been decided against by the Board, or not. We would know that; but they said it was a difficult thing to do. I suggest to the railways that they come before the Commission now, seriously, and tell us why they cannot apply maxima rates on hauls, let us say, of 2500 miles, with which we have to put up in Alberta. I invite the railways to do something more than they have done this morning. We, out in the long-haul part of the country, feel this matter to be an important one. I merely invite the railways to treat it with the seriousness that it

deserves and to make a complete representation to the Commission in the matter. That is my point.

MR. O'DONNELL: I do not want my friend to think that I make remarks from chance. I was quite serious in my remarks, and furthermore, my friend should not leave the Commission under the impression that the Board of Transport Commissioners said that it was too hard to work out. They gave very full reasons why they did not accede to the request of the long haul representations who appeared before them.

We have read this passage many times; and at page 65 of the Board's judgment, I read:

"Strong exception was taken by the respondents to the granting of a straight percentage increase in freight rates. But, as I view the matter, this is the only workable and practical method of dealing with the question in order to provide the additional revenue required by the railways."

And further on down the same page:

"While there are a number of individual cases --"

Mr. Frawley may have some --

" -- where discrimination in rates is alleged to exist and it may be that some of these require special and separate consideration, on another occasion. But they do not seem to be so outstanding as to require separate treatment in a case of this nature."

The case before the Board at that time was a revenue

case, and the Board expressly reserved the right that the people who, in the judgment, might be said to be discriminated against would have the right to appear before the Board to show how they were discriminated against. That is the effect of that judgment.

MR. FRAWLEY: My learned friend passed over -- and quite innocently -- the paragraph on page 65 which I shall now read to the Board. I shall read the short paragraph my friend just read first:

"Strong exception was taken by the respondents to the granting of a straight percentage increase in freight rates. But, as I view the matter, this is the only workable and practical method of dealing with the question in order to provide the additional revenue required by the railways.

"There were submissions that if increased rates were authorized there should be varying percentages of increase, the lower percentage of increase being made on long hauls and the highest percentage of increase on short hauls; it was also suggested that maximum increases should be provided in order to avoid a very large increase upon relatively high rates from distant points of production to important markets."

That is a summation of the case we put to the Board.

"One difficulty with respect to the adoption of a varying or maximum increase is apparent,

namely, the lack of reliable traffic statistics from which to determine the additional revenue which would accrue from flat or maximum increases on particular commodities. Further there is not on the record anything to enable any determination concerning the commodities and sections of the country and even the individual rates which could best bear the burden of an increase."

Then my friend read the following paragraph. Now, I put it, with all respect to the Board, that that was not a sufficiently minute examination of our argument. We admit that to dispose of our argument would certainly have required some research. This was a serious matter to the western provinces because we pay large amounts of freight, dollar-wise, because of the long haul, and we suggest that the Board should have gone into that matter before they disposed of it.

Now it is before this Royal Commission, and we seriously want the matter of horizontal increases and how they should be applied -- I do not go as far as the maritime provinces and say that there should be a statutory prohibition against horizontal increases; no, no.

But I do say they should be applied always with maxima. I am simply suggesting to my learned friends of the railways that their duty before this Commission is to present everything real and substantial which may elaborate on why the maxima increases as

have been applied in the United States cannot be applied in Canada. I leave it at that. But I think when they have reconsidered the matter, we will have, in Ottawa, a submission from the railways as to why they hold to the form of these horizontal increases which have the effect of punishing the greater part of Canada in the hauls of 2500 miles.

THE CHAIRMAN: The maxima would serve as a corrective to the horizontal increases?

MR. FRAWLEY: That is right.

THE CHAIRMAN: And you would have that corrected according to distance?

MR. FRAWLEY: Yes, Mr. Chairman, and according to commodities, because some commodities cannot take the whole horizontal increase.

THE CHAIRMAN: Regardless of their particular destinations?

MR. FRAWLEY: That is true; that is another factor coming in; and they have all got to be weighed together.

THE CHAIRMAN: You say that the Board should have investigated further into the question before disposing of it?

MR. FRAWLEY: That is all I say.

THE CHAIRMAN: It is not that the Board lacked the jurisdiction or power?

MR. FRAWLEY: Certainly not.

THE CHAIRMAN: What would you have us recommend for the Board, because we must recommend general principles?

MR. FRAWLEY: Of course, Mr. Chairman.

THE CHAIRMAN: And they already have the power which you want them to exercise; and they simply refuse, as you say?

MR. FRAWLEY: That is true; and it might be that is why the matter of horizontal increases was remitted, along with a number of other things, back to the Board.

THE CHAIRMAN: In view of that, I think you, for the moment, disregarded this, a few minutes ago is there any other way to do this except by statute? You say you are not asking for statutory prohibition of the horizontal increases?

MR. FRAWLEY: No. But I think there is something in your lordship's order in council dealing with guidance.

THE CHAIRMAN: Yes.

MR. FRAWLEY: As your lordship knows, at Ottawa, at some time, we shall be making a more complete submission, and it will include something about horizontal increases.

THE CHAIRMAN: Yes. I do not think this is the time to deal with it finally. However, this slight interruption has given the railways an idea of what your position is.

MR. FRAWLEY: I wanted to do that.

THE CHAIRMAN: Has given the railways and the Board, too.

THE WITNESS: I think that would be the

position of our Commission, along Mr. Frawley's same approach.

THE CHAIRMAN: Yes?

THE WITNESS: I do not think it is necessary for me -- I was going to answer some questions in connection with it, but I do not think it is necessary now, except to state that, going back to around 1933, in the United States there was an application made before the I.C.C., I believe, for a 15 per cent increase; and the increase was not granted to the railways. The thought was left that the railways proposed this, and that the I.C.C. had accepted it.

The application was made before the I.C.C. and the exact increase granted was considerably less than the one asked for. In other words, they were the ones who prescribed the rates which were implemented.

THE CHAIRMAN: Q. When you say "they", whom do you mean?

A. I mean the I.C.C. It is my interpretation that because of the dicta which had been laid down in the previous cases, starting in 1933, the railways realized that when they came before them with a straight horizontal increase, they might find themselves having rates prescribed. So they came forward with this suggestion. That is my interpretation.

MR. SINCLAIR: Q. That is your view?

A. I think that is the point that has been argued before the Board, and also followed on later by our Commission.

THE CHAIRMAN: You had better go on, Mr. Covert.

EXAMINATION BY MR. COVERT

Q. You have finished with your corrections with respect to the answers about potatoes?

A. At page 3812 of volume 20 of the transcript, Mr. Sinclair put a question to Mr. Morrow. I have discussed this with Mr. Sinclair since I checked it up. I was not quite sure of the situation when he raised the question, and I discussed it with him and I made him aware of the fact that I was going to refer to it now; and in the event that he has nothing additional to add or supplement, I will try to put it in as I see it.

The question to Mr. Morrow was as follows; it had reference to the rates from Boston or the United States to eastern seaboard, Boston and Gloucester to Chicago, and I believe Mr. Sinclair had in mind the rate from Halifax; and the question is:

"Q. (Mr. Sinclair) How do their rates compare, for instance, to Chicago, as compared to yours?

"A. I do not know the . . .

Q. They are substantially higher?

A. The rail rates. Our understanding from our customers in the States today is that they do not use the railways to any extent from New England. Most of their fish is brought in now by truck."

The inference there being that the rates were higher

from Boston to Chicago than from Halifax. Mr. Sinclair kindly brought to my attention a further part of his question in regard to that matter.

On page 3813, Mr. Sinclair says:

"Mr. Sinclair: Q. For smoked or frozen fish for comparable distances in the United States, their rates are substantially higher than your rates to the same market, are they not?

"A. By rail?

"Q. Yes.

"A. I am not in a position to answer that question."

Over the last week end I checked up with Boston to make sure with the Boston and Maine Railroad as to the rates; and, in the meantime, Mr. Sinclair has done likewise. And the Boston and Gloucester man, right to Chicago, for a 24,000 lb. minimum pays \$1.38, by the standard route; and \$1.34 by the differential route, compared with the rate from Halifax of \$1.74, from Halifax to Chicago.

THE CHAIRMAN: Q. What is the difference in distance?

A. I have not checked that up.

MR. SINCLAIR: Halifax to Chicago is 1510 miles; while Boston to Chicago is 993 miles.

THE WITNESS: I shall go on further. I have not finished this particular part.

In addition to that, from Boston to Chicago and other points in what they call the central freight

territory they have another carload rate for a lower minimum. But if comparison is made with our 24,000-lb. one, we have not got the lower minimum from Halifax and other maritime points such as Saint John and Charlotte-town.

The differential rate is for a 15,000-lb. minimum by the standard route and it is \$1.92; and by the differential route, it is \$1.87 per hundredweight, all of which is plussed by 6 per cent.

THE CHAIRMAN: Q. What are these two routes, the differential and the standard?

A. The standard route is the short-line route, let us say, from Boston to Chicago. But other railroads that, perhaps, go around -- for example, I have in mind the Canadian National and the Grand Trunk and the Central Vermont going around a circuitous route going to Chicago; they have substantially more mileage; so they would not be in the same competitive position because of the time element. So, as a matter of agreement, an arrangement with the so-called railroads that have to go around by a circuitous route, they grant or arrange a lower rate.

(Page 4400 follows)

MR. O'DONNELL: They get a different rate.

THE WITNESS: A lower rate. It is a sort of compensating feature for the loss of time.

THE CHAIRMAN: Q. They carry the goods a longer distance for less money:

A. That is right, Mr. Chairman.

MR. COVERT: Q. It just occurred to me, Mr. Matheson --did you get a rate from Boston to points further west.

A. No, I did not follow that up, Mr. Covert.

MR. SINCLAIR: I told Mr. Matheson I would get them, and I can put them on the record.

THE WITNESS: I want to finish with this matter of rates on fresh and frozen fish from eastern Canada to the markets in the United States and what we know as Central Freight Association territory, of which Chicago is one of the principal points, has been up for years, and the Canadian Railways, with all due credit to them, have been very good in endeavouring to work out rate arrangements with the United States lines in order to facilitate our movement of fish on a basis related to Gloucester and Boston. Pursuant to March 28, 1938, freight rate changes were implemented in the United States, which had an impact on our rates across the border, on international rates; that is to say, the increase at that time on fish rates was 10%, but subsequent to implementing that increase in the United States they reduced their rates on grounds of competition to 5% above what they were on March 27, 1938.

We took this matter up with the Canadian carriers in order to maintain the relationship that we had before,

in the interest of our fish industry, and they concurred in our proposal and took the matter up with the United States lines. Unfortunately the United States lines turned us down, or turned the Canadian carriers down, with a few exceptions in what they call trunk line territory or certain sections -- well, for example, some parts of New York State, the northern part of New York State. The war intervened and that particular rate negotiation was held in abeyance. Now, our whole rate structure into the United States down here was based on arbitraries over Montreal, and of course when you work out your arbitrary basis, using groups of that nature, distance goes by the board, and it must have been a reasonable proposal to a certain degree or the United States carriers would not have concurred in it. So, to answer distance-wise, I would say that our rates are on a commodity basis to this particular territory, and, if I remember correctly, the rates from Boston and Gloucester and other points in New England and trunk line territories are on what they call percentage or class rates. I do not remember the exact percentage offhand -- it is sometimes quite difficult to remember all details -- but I thought I would give that particular background.

MR. COVERT: Q. Were there any other questions as to which you wanted to speak?

A. Oh, yes; I want to clean these up.

MR. SINCLAIR: Do you want these comparisons on the record here?

MR. COVERT: It might be a good idea to put them on. I think it might be useful if Mr. Sinclair would just

read those.

MR. SINCLAIR: I will just hand it to the reporter and it can be incorporated in the transcript, to save time. They are matters that you can see better than you can follow by hearing them.

R A T E S O N F I S H

<u>To</u>	<u>Miles</u>	<u>Fresh or frozen</u>		<u>Smoked</u>		<u>-</u>
		<u>Rate</u>		<u>Rate</u>		
		<u>per</u> <u>100</u> <u>lbs.</u>	<u>Minimum</u> <u>pounds</u>	<u>per</u> <u>100</u> <u>lbs.</u>	<u>Minimum</u> <u>(Pounds)</u>	
<u>From Halifax, N.S.</u>						
Chicago, Ill	1510	\$1.57	24,000	\$1.11	30,000	
Toronto, Ont.	1005	.69	20,000	.63	24,000	
Montreal, Que	682	.52	20,000	.52	24,000	
<u>From Boston, Mass.</u>						
Topeka, Kan.	1511	1.93	24,000	1.58	36,000	
Chicago, Ill	993	(1.38	24,000	.79	36,000	
		(1.92	15,000			
Elyria, N.Y.	685	1.61	15,000	.68	36,000	

Note: Rates are exclusive of Ex Parte No. 168 increase of 6% to Chicago and Elyria, and 5% to Topeka.

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THE CHAIRMAN:Q.The general question behind all this is whether the rates are higher or lower in the United States than they are in Canada for equal distances?

A. Yes. I just want to clear up, Mr. Chairman --

Q. All right, work it out the best you can in detail.

A. At page 3596, in Volume 19 of the transcript of evidence, the question arose as to the rates on grain and grain products that were effectuated on July 2, and I was speaking at random, I did not know the rates exactly offhand, and I said I would check them. From the head of the lakes to Halifax, N.S., all rail, the rate is 59¢ per 100 lbs., and to Saint John 56¢ per 100 lbs.

Q. What is the rate to Halifax?

A. 59¢, Mr. Chairman.

Q. And to Saint John?

A. 56¢. On page 3598 of Volume 19, a question arose as to the effective date of the competitive rates on canned goods eastbound, and, if you will remember, I was not certain if it was April 1 or April 15, but on checking into the matter in Moncton on my return to the office I find that these rates, these competitive rates on canned goods, applied for the period each year April 15 to November 30. I wanted to mention that. There was a slight hiatus there in regard to my study, where I had used the dates April 7 and April 8, and that was before the period of the effective increase on April 15. I just wanted to clear up that particular aspect.

On page 3756, in Volume 20, with reference to

the question of admonition that I had referred to in my brief, the I.C.C.'s powers in regard to co-operation, I quoted a decision there in 1935, known as Ex Parte Case 115 Emergency Freight Charges, in the United States, and I stated there that the I.C.C. had admonished the United States carriers to effectuate economies to eliminate waste, and raised the question of co-operation. However, in this connection I must refer you to what is known as the Emergency Transportation Act of 1933, and this decision was issued within the period that particular Act was in effect in respect of measures --

Q. Talking of the United States Act?

A. That is right, sir -- in respect of measures of co-operation. And it was not until I checked back to ascertain the situation that I determined this particular aspect. I have not as yet had time to check further into the I.C.C. matter to see what the situation is as of to-day in regard to co-operation, but as to the emergency provisions, I think I will read this statement into the record:

"The emergency provisions of the Act of 1933 looked primarily toward the elimination of wastes in the railway industry, particularly unnecessary expenditures arising from the failure of the railroads to coordinate their operations. Specifically, the objectives were (1) to encourage action on the part of the carriers, which would avoid useless duplication of services, control allowances that unduly impaired net earnings, and eliminate other losses; (2) to promote financial reorganization of the carriers, so as to reduce fixed charges; and

"(3) to provide for the immediate study of means of improving transportation conditions in general.

"For the purpose of carrying out these objectives, the act created the Federal Coordinator of Transportation and three regional coordinating committees, each to be composed of five members selected by the carriers and two members designated by the Coordinator. Plans for accomplishing economies were to be devised by the committees; and if the committees were unable to carry out such plans voluntarily, they were to recommend that the Coordinator issue mandatory orders. Subject to appeal to the Interstate Commerce Commission and to the courts, orders so issued were declared binding, and the carriers were relieved from the antitrust laws to the extent necessary.

"Coordination projects were severely limited.

It was provided that the number of employees" --

There is a question there about employees; I won't bother going into that particular aspect.

"The emergency provisions of the act were to remain in force for one year from effective date, with the proviso that they might be extended for another year by presidential proclamation. They were so extended to June 16, 1935, and Congress by joint resolution again extended them to June 16, 1936, at which time they expired. Prior to and after expiration, several studies were published by the Coordinator."

However, there were certain provisions remained in the Act

regarding consolidation and so on. Now, I have not as yet been able to find if there have been any other powers remain under the I.C.C.

MR. COVERT: Is that a quotation from --

A. This is just a drafting from the Act, you see.

MR. O'DONNELL: Q. It is your own summary?

A. Oh, yes, that is a summary of the information, but I think it is quite correct.

Q. Oh, I don't doubt that; I just wanted to know whether it was a copy by somebody else.

THE WITNESS: I wanted to clear that, because it would leave the impression that there is still a power in effect, and that was ~~not~~ my intent at all, with that particular decision. I just quoted that decision, and that left that impression in my mind.

MR. O'DONNELL: That was the Act that was in force when the American roads were all virtually in bankruptcy and they were trying to readjust and so on.

THE WITNESS: Readjustment and co-operation and everything else.

THE CHAIRMAN: Q. Has it been repealed since or become obsolete?

A. It expired in 1936, the particular provisions. At page 3838 --

MR. COVERT: Q. That is, of the transcript of evidence?

A. That is right -- Volume 20. There is a question here by the Chairman at the top of the page -- I won't bother reading the whole thing -- and then at the bottom the question was put to me:

"Do you insist, presumably, in any such case, that all sections of the country, where

"industries of that nature were involved, would have to be notified to appear?"

Now, this had reference to recommendations that the Board be given broader supervisory powers to establish rates for the development of the natural basic products and associated enterprises, and (b) to investigate and determine the incidence of the railway charge and production costs which constituted in effect what the Duncan Commission had said in their report. Now, the question arose there, if the Board looked into the case of an industry and established a rate to facilitate that industry to get into a particular market, what about other shippers in other parts of the country. It is my thought in this connection that in the event of assistance rendered to a shipper in the public interest to facilitate entrance to a market, it would be open for another shipper on the same railroad to present his case somewhat in the same manner that a shipper might petition for an agreed charge under Section 36, part 5, of the Transport Act.

THE COMMISSIONER: Q. Why do you confine it to shippers on the same railways? The rates issued apply to all railways.

A. The thought there, sir, is that another railroad could put in a rate to meet that adjustment on its own initiative, or it might not put it in, as it sees fit. In other words, I am looking at this particular aspect in the light of the particular problem that might exist in a particular locality. I would have no compunction in connection with the proposal -- perhaps just the way I put it in, on the same

railway, that under the Transport Act, under the agreed charge section, the agreed charges are formed by the Canadian Freight Association, and that leaves it wide open for any railroad, so perhaps the same thing could be applicable in this particular instance.

MR. SINCLAIR: Q. Is that to the same market, Mr. Matheson, your proposal?

A. It could be the same market, Mr. Sinclair.

Q. Necessarily, I mean?

A. Oh, not necessarily. I have a case in connection with this particular proposal, the same as the Duncan Commission, which I have more or less accepted, an instance in point. Here is a case of special rates that we had on livestock, not referring to the exhibition rates or the breeding rates, but we had a 10,000-pound minimum scale of rates on livestock in the Maritime Provinces. That scale was identical to the scale that was into effect in Ontario and Quebec for a distance of 200 miles. Now, just within the last two or three months that scale was cancelled. It was indicated as competitive, and naturally it was at the discretion of the carriers to take them out as they saw fit.

The history of those rates in the Maritime **Provinces** is as follows: They put in the 10,000-pound minimum scale rates some years ago at the request of our Commission, in co-operation with the three Departments of Agriculture, after we had discovered that they had an arrangement of that nature in effect in the central provinces that was implemented to meet truck competition. The conditions and circumstances surrounding that particular

rate were not altogether on all fours with the situation that obtained in the central provinces. The Agricultural Departments were endeavouring to enhance their production of livestock in the Maritimes and had established schools or societies throughout the Maritimes for interesting themselves in the production of livestock. The situation existed whereby drovers would go into these places and buy -- there was no organization with regard to the production, the result was haphazard, and to have the stuff moved in a regular manner by rail offered a considerable amount of advantages; and, while there was truck competition, the primary factor there as I remember it was getting the stuff developed, this movement of livestock into the abattoirs. Now, those rates were cancelled -- they were indicated as competitive -- they were cancelled because they cancelled them in Ontario and Quebec, and we felt that in the interest of the livestock industry they should be continued, because it was a sort of development rate to assist these localities that would probably have only ten hogs at one point, the car would stop off at the second point and they would load in the other number of hogs in order to fill the car, or there might have been a couple of cattle thrown in with it. My thought in that regard is, if the railways under their own managerial prerogative assume, "Well, we are not going to put these rates in because they cancelled them in Ontario and Quebec, and by the same token they should be cancelled here," even despite the fact that the revenue from these rates was greater to the railroad in the Maritimes than in the central provinces, and they were getting a large quantum of the traffic, they were taking it from the trucks, in a

situation of that kind the Board then could step in and look into the matter and say, "Well, now, this is something that is in the public interest," and I believe that that was what Duncan had in mind, and that is what I had in mind in connection with some of these particular situations.

Following through on that, almost a parallel situation obtained in regard to the subventions on coal when they were first implemented. The demand was made in regard to coal rates that they were impeding the movement of coal into the markets of Central Canada, and the Dominion Government by various Orders in Council asked the Board of Transport Commissioners, or directed the Board of Transport Commissioners I should say, to investigate into the cost of moving this coal to the markets of Ontario and Quebec under Section 38 of the Railway Act. The inquiry by the Board of Railway Commissioners for Canada into the cost of shipping coal from areas in Western Canada to consuming points in Ontario was pursuant to Order in Council P.C. 225, dated February 15, 1926, report found in 17 J.O.R. & R., page 439.

A further inquiry by the Board of Railway Commissioners for Canada was made pursuant to Order in Council P.C. 439, dated March 16, 1928, found in 19 J.O.R. & R., the finding, page 422. It is my thought in this regard, and going back to this particular proposal, that the Board itself could undertake on representations to it similar investigations without having the matter emanating direct from the Governor in Council, if the facts were presented and they

thought it justified investigation in the public interest. It does not necessarily follow that what their findings would be would be implemented. It might be a basis of something for the Government to consider and to take action pursuant thereto. Those are two instances which I thought it opportune and timely to put in in regard to that particular proposal. That covers that.

MR. SINCLAIR: Q. What is the difference there between existing legislation under Section 36 of the Railway Act?

A. That is upon complaint to the Minister by any representative body of carriers which in the opinion of the Minister is properly representative of the interest of persons --

MR. O'DONNELL: That is the Transport Act you are referring to.

MR. FRAWLEY: Did you say Section 36 of the Railway Act?

THE WITNESS: Pardon me, the Railway Act. "The Board may of its own motion or shall upon the request of the Minister." The difference there is that it is specifically being stipulated that they can undertake those investigations and make their determinations, Mr. Sinclair, if that answers your question.

MR. FRAWLEY:: Mr. Sinclair, do you really mean Section 36 of the Railway Act or the Transport Act?

MR. SINCLAIR: The Railway Act.

THE WITNESS: "The Board may of its own motion." There is a question of stipulation.

MR. SINCLAIR: He wants to make it "shall" instead of "may" .

THE WITNESS: I beg your pardon, Mr. Sinclair.

MR. SINCLAIR: As I understand you, you want to make it "shall" instead of "may".

THE WITNESS: Oh, yes.

MR. SINCLAIR: Obligatory rather than permissive.

THE CHAIRMAN: Q. The Section now provides that the Board shall if the Minister requests it to, but without that request they may. What change would you make.

(Page 4414 follows)

A "The Board shall of its own motion".

Q Whether the Minister asks them or not?

A "Or shall, upon the request of the Minister".

Q What is that?

A There is "may" and "shall". "The Board may, of its own motion, or shall...." My suggestion would be there that "the Board shall of its own motion".

Q Every time there is a complaint?

A Well --

Q In that case you would not require the intervention of the Minister at all. Let us say somebody wants an investigation made and the Board, we will say, does not wish to make it of its own motion, then he goes to the Minister and the Minister asks them to make it and they make it. As I understand you, you think the Act ought to be amended so that the Board shall in every case make this investigation?

A In line with that particular proposal.

Q The Board would have no option to refuse?

A That is the point.

Q They would have to upon complaint?

A Upon request.

Q It says "complaint" here.

A This would have to be altered to allow them - you see, what I have in mind there is, for example, if there is an industry that felt its situation was being handicapped rate-wise, then this investigation would be made by the Board on application to determine if, in the public interest, a rate could be implemented to take care of their request.

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Q That it should be compulsory on the Board in every application to have an investigation?

A Yes.

Q You would eliminate --

A The "may".

Q The intervention of the Minister?

A I think that would automatically follow.

Q It seems to me that it would.

A I think that would.

Q The Act says now that the Board may or may not proceed upon complaint, and then if the Minister requests them to they must investigate. You say they shall in every case?

A They shall in every case.

Q Therefore you no longer require the Minister?

A That would eliminate it automatically, although I think there should be some provision there that the Minister himself may.

Q Yes, whether there is a complaint or not. You say that the Board shall, upon direction of the Minister or upon complaint by somebody affected, hold an investigation?

A That is right.

MR. O'DONNELL: Q. Even though they know all about it previously?

A Who knows all about it?

Q The Board?

A They might not know all about it.

Q That is where they have discretion to move or not to move.

THE CHAIRMAN: Q. Anyhow, you would remove their discretion? You would abolish it?

A I would abolish it, and that would necessitate the abolishment to that end with that particular proposal as I see it at the present time, Mr. Chairman, but there might be some features about that that I might want to give further thought to. Is there anything further on that one?

The next one is page 3848. This has reference to a discussion in connection with market and carrier competition. At the bottom of page 3848 there is a question by Mr. Covert which reads:

"Q. I was wondering if you had that in mind when you were talking about the eastern lines being under separate management?

A. That is definitely what I had in mind.

Q. Do you think that would encourage, for instance, long haul traffic from the Maritimes?

A. Well, that is the purpose I had in mind."

Then at the bottom of the page Mr. Covert says:

"Q. Now, that seems to me to be a different answer from the one you gave yesterday when the Chairman was discussing with you the question of whether or not a simple amendment to the Act would be just as effective as going to all the trouble to segregate the eastern lines and put them under separate management."

THE CHAIRMAN: Q. Separate what?

A Separate management for rate-making purposes. Here is what I have to say there. The railway, as separated

for rate-making purposes, could (1) implement rates to meet carrier competition outside the territory; (2) implement rates to meet market competition and (3) special rates to encourage industry on its own line, without running the same risk under the Railway Act.

In connection with (1), if the railroads reduce rates to meet competition in the central provinces, the intercolonial system could do likewise to meet competition, although the competition is indirect. As to (2), rates would be established to meet market competition, and as to (3), a rate could be established to encourage industry. However, such action could result in an offsetting reduction in another territory and on another railroad.

In connection with Dr. Innis' question on pages 3859 and 3860 of the transcript, Dr. Innis' question is as follows:

"Q. Do you suggest there might be competition between different sections of the railway itself, that is to say, a railway anxious to bring British Columbia lumber, and a railway anxious to bring Nova Scotia lumber in to the Central Provinces is really competing against itself?

A. That is right.

Q. And is it your view then that the western area might be preferred by the railway, the monopoly position might be given to the west rather than to the east?"

My answer to that was:

"Would you let me think that question over, Dr. Innis."

Under the existing transcontinental railroad setup in Canada, one division or region of a railroad might find it of advantage to adjust rates to meet carrier or market competition at a point say outside the Maritimes, but if it did so it would precipitate demands for a corresponding adjustment from a point that originates possibly a greater volume of traffic, and under the Railway Act it would likely be liable to a complaint of unjust discrimination. The net result would be a lessening of revenue to the system, or possibly under section 320 of the Railway Act the special rates might be cancelled. Consequently, with a transcontinental setup there is a hesitancy to break any part of the rate structure web in case the whole would collapse.

MR. SINCLAIR: Q. The answer to Dr. Innis' question is that there would not be a tendency to prefer one region over the other under a transcontinental setup?

A I am afraid, Mr. Sinclair, you misinterpret my answer.

THE CHAIRMAN: Q. Mr. Matheson, you have talked about loss of revenue. Where would the revenue go? Do you mean to say the traffic would stop entirely or go to another railway or go to a truck carrier, or what would happen?

A No. We will take the situation of lumber, let us say, in Ontario moving into the Toronto market, and within the same territory there was a reduction in rates to meet competition, and let us say we ask --

Q To meet what competition, trucks?

A We will say truck competition.

Q Truck competition?

A Yes. We have three pictures, one section in Ontario without competition --

Q No competition?

A With no competition; a section in Ontario with competition, and our own territory down here. Under the Railway Act as stated, the management in Moncton might say, "Now, there is motor truck competition going into Toronto from point X. There is competition, and it is affecting us, and we want a corresponding reduction to help us to get into that market." The problem is if they granted us that without any competition going into that particular market .-

Q From here?

A Let us assume --

Q Without competition from here?

A Let us say it is wintertime and there is no competition from here of any kind. This section up in the northern part of Ontario, the other section I referred to in Ontario, that has not got the competition could come right in under the Railway Act and ask for a corresponding reduction. Let us assume they were getting a substantial volume of traffic from that particular section compared with the volume they were getting down here. The railways would hesitate to effectuate any adjustment because the net result would lower their overall revenue if , as a result of the adjustment, they had to reduce the rate from the northern Ontario section into the Toronto market.

Mr. O'DONNELL: Q. They are not allowed to give a preference; that is all.

A Under the Railway Act, unjust discrimination.

Q What do you want?

A I am referring to the Intercolonial Railway aspect.

THE CHAIRMAN: Q. How would you solve that problem?

A That is on the transcontinental system. I am directing my point to the Intercolonial system as suggested in the brief. Under the Intercolonial system, as in my brief, they could reduce their rate from Saint John into Toronto without running the risk of unjust discrimination.

Q That is, without being charged with unjust discrimination?

A Because it is a separate operation.

Q Your way of doing that would be to constitute them a different railway?

A Yes, that goes back to the Intercolonial system.

Q Would it not be much easier and simpler to amend the Maritime Freight Rates Act and say that this shall not be considered unjust discrimination? You see, I thought today you were going to talk about the loss of revenue they would incur which would be a deterrent to them, but if the only objection is that they will be committing an act of unjust discrimination that would not be hard to remedy by legislation, if it is deemed advisable so to do.

A If they were forced to reduce their rate from the northern Ontario point, in the illustration I have given, to Toronto, then there would be a loss of revenue on the over-all picture.

Q Yes.

A That is where I have the idea in mind, and I

interpreted Dr. Innis' question --

Q You mean the loss of revenue would be borne by another railway?

A No, I am speaking now of the national transcontinental system.

Q But you would split them into two?

A That was the purpose of this suggestion, in order to get in line with the purpose and intent, as I contend, of the Intercolonial Railway.

Q Which of the two lines after the split would incur the loss of revenue ?

A It would be the Intercolonial Railway. Well, it might not be a loss of revenue. It might be, in so far as the Intercolonial Railway is concerned --

Q You have said there is bound to be a loss of revenue. Who is going to suffer the loss of revenue, the line which is not the Intercolonial or the Intercolonial?

A Put it this way, sir, under a national set-up the railways would hesitate to reduce their rates from here on say a thousand carloads of lumber and forcing a reduction on 2,000 carloads coming from the other point in Ontario where there was no competition.

Q But there you are back to unjust discrimination?

A That is the point.

Q Let us forget that for a moment. You say that the granting of the lesser rate that you would ask for would lead to a loss of revenue. That is another very different aspect of it. Who would suffer the loss of revenue?

A The angle there on this particular railroad

here - it might be if they sharpened their pencils down they might be able to facilitate the movement of goods from this territory into Toronto and make some money on it.

Q Without any loss of revenue?

A Without loss of revenue.

Q Then in that case nobody would suffer a loss of revenue.

A They would probably gain revenue if they could get the traffic from this area.

Q And what about the other railway? Would it suffer a loss?

A Taking the other railroad, they might --

Q They could lessen their rates?

A They could, on their own option, lessen their rates.

Q They could lessen their rates to compete with you?

A That is quite right. I will grant you that, Mr. Chairman.

Mr. O'DONNELL: Q. What about shippers in other parts of the country who would be discriminated against?

A Mr. Hugh O'Donnell, you know section 325, the unjust discrimination features, better than I do, but there we are again back to the question that a rate on one railroad is no criterion of the reasonableness of the rate on another railroad at any time. That has been handed down in monotonous repetition by regulatory bodies in both Canada and the United States for a number of years. Therefore there would not be any unjust discrimination in respect to the rate on lumber, using that as a hypothetical

illustration.

THE CHAIRMAN: Q. Do you mean to say that would put an end to all complaints from other regions?

A They could not very well complain against a rate on another railroad if they put in a rate from Moncton, let us say,

Q You see, there are two railroads now as it is, and you have these complaints?

A Yes, but let us say, for example, just the Canadian National Railways are operating from northern Ontario down to Toronto, and the Intercolonial system as proposed in my brief reduce their rate for market competition, as I call it, or carrier competition. It does not necessarily follow that the other railroad is going to reduce their rate. They may or may not as they see fit.

MR. SINCLAIR: They might still get the traffic.

THE WITNESS: It depends on the situation. They might say, "we will still get the traffic. We will still get the business." In respect to the shipper down here, he would get the rate, but that would not necessarily mean that the other fellow would have a complaint of unjust discrimination.

MR. O'DONNELL: Q. Even though the rate was non-compensatory? Who would pay the loss in that case?

A You are assuming the rate would be non-compensatory.

Q I am putting it that way.

A There is a question there that would have to be worked out. If, for example, it is a question of the railway making its out-of-pocket costs plus something over, and they

are getting the business, it would be something to add to the pot. It all depends what you mean by a non-compensatory rate. It might be the empty movement of cars going back. It might be to the advantage of the so-called Intercolonial system to have those cars filled instead of going back empty.

COMMISSIONER ANGUS: Q. Can you work this in reverse. Suppose a reduction was made not from the Maritime Provinces but from a point in Ontario or in the west. You would argue that the rate established by one railway was to be the criterion for the rate on the other, and that the Maritime Freight Rates Act was to apply?

A The Maritime Freight Rates Act would apply in that case. You are quite right.

Q It is a little like the Animal Farm, that all the provinces are to be equal but the Maritimes are to be more equal than the others.

MR. O'DONNELL: Q. Your proposal is an indirect way of getting a subsidy. That is what it amounts to?

A The proposal I am making goes back, as we understand it, to the inherent purpose and intent of the Intercolonial Railway.

THE CHAIRMAN: What is the next question?

A At page 3857 and page 3919, questions directed by Mr. Covert to me, and at the bottom of page 3856 he states as follows, and this is in regard to the proposals, the recommendations I made in regard to the Railway Act on pages 81, 82 and 122 of our brief. The proposals on pages 81 and 82 are identical to those on 122. Mr. Covert's question is:

"Q. Again I raise that question with you. It seems to me that here again you are practically making an economic planning board of the Board of Transport Commissioners. How do you feel about that?"
Then on page 3919 --

MR. COVERT: It is the same effect.

THE WITNESS: It is the same effect. As to (a) on page 81 of the brief, the conditions which at any time prevail in industry to the end that commodities may move freely; (b) the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; (c) the rate relationships under which industries have been established and developed; (d) the incidence of increases in worsening regions economically - it is not my intention in any manner, shape or form to suggest the creation of an economic dictatorship in the Board of Transport Commissioners. The various proposals made therein are intended as directions to the Board in their consideration of rate matters, particularly also in general revenue cases.

As to (a), I refer you to Exhibit 47, appendix 1-B, the statement of Walter J. Kelly, the fourth paragraph of his statement.

THE CHAIRMAN: Q. You are talking of the fourth paragraph of what?

A Of Appendix 1-B at page 1.

Q Yes ?

A "The decisions of the Commission disclose quite clearly, I think, that over the years it has interpreted the Interstate Commerce Act as imposing upon it the duty of so administering the various

provisions of the Act as to" -- and I emphasize this --
"encourage and promote the utmost freedom in the
movement of traffic."

You will notice there is a striking similarity to that
contained in (a) the conditions which at any time prevail
in industry to the end that commodities may move freely.

Q The utmost freedom in the movement of traffic.
That is what you mean?

A That is right. As to (b), I refer you to
section 15(a) of the Interstate Commerce Act in which those
identical words are included.

Q That is about worsening regions economically?
You said (d), did you not?

No, I should have said (b).

Q The effect of rates on the movement of traffic.

A "By the carrier or carriers for which the rates
are prescribed." As to (c), the rate relationships under
which industries have been established and developed, I
refer to pages 4 and 6 of Appendix 1-B.

"The Commission prescribed an adjustment under
which all salt producing points in a particular
origin group would have the same rate to each des-
tination based on the approximate average mileage
from all points in the group."

Q That is an adjustment to all salt producing
points?

A That is right. In other words, there was a
relationship maintained for industries. I refer also to
page 6.

Q Pardon me a moment. You are talking of the rate
on salt?

A I am referring to the rate on salt there, that
there is a maintenance of relationship between producers.

MR. O'DONNELL: Q. Are not the words of Mr. Matheson "of a broad origin group" important in that classification?

A. I will go on and give further classifications. There are two or three here. I am just picking some of them out.

On page 6, the lake cargo rates, coal rates, also reflect differential relationships between origin groups.

THE CHAIRMAN: Q. Where is that?

A. Page 6, Appendix 1-B, the second paragraph.

Q. Lake cargo, coal rates?

A. "Also reflect differential relationships between origin groups in substantial disregard of distance to permit all producers in the Appalachian area to compete freely in these important and intensely competitive markets."

Q. Have we not something akin to that in the coal rates in western Canada?

A. Yes; and you also have it in regard to the eastern areas. But there is a question of maintaining rate relationships in regard to freight rate increases, you see.

Q. Yes?

A. Now, I refer you also to the Ayrshire Collieries case. I have not got the United States Supreme Court reference to this case; but the style of cause is:

"Ayrshire Collieries Corporation Big Ben Collieries, Inc., Birch Creek Coal Company, Inc,

et al., Appellants,

v

The United States of America, Interstate Commerce Commission, et al."

"Appeal From the United States District Court for the Southern District of Indiana."

I believe this case was reported in January, 1949, but I will have to check it.

Q. What light does that case throw on the question?

A. It is a reference to the question of maintaining relationships in regard to rate adjustments, and so on, and complaints with regard to rate relationships.

Q. As between freight rates?

A. Between producers. That is the main purpose.

Here is a quote, and it refers to various decisions of the I.C.C., and it says:

"There is no doubt, therefore, that the Commission believed that the competitive factor was an important one in considering this problem of rate relationships."

Q. A competitive factor between railways or between producers?

A. This is between producers, in this particular case.

"Rate structures are not designed merely to favour the revenues of producers and carriers." The Commission has the consumer interest to safeguard as well."

I won't go into the various parts of this case. But this

case does bring up the question of relationships.

Now, I want to refer to the judgment of the Board and why I wish to stress the importance of having express stipulation. Mr. Frawley very kindly read a section in connection with another aspect, this morning. And on page 65 of volume 38, No. 1-A ---

MR. COVERT: Q. You are about to read from the judgment in the 21% case?

A. Yes; and the Board, in the second paragraph, which Mr. Frawley read into the record this morning, -- so I won't re-read it, because it is already in the record -- the Board said, ^{about not} giving this matter consideration, but just applying the percentage increase right across the board; that completes that point.

MR. O'DONNELL: Q. Might I interject that the Board in its last judgment at page 57 -- there will be found remarks concerning so-called rate relationships.

THE CHAIRMAN: What is that?

MR. O'DONNELL: In the Board's last judgment, they have a few paragraphs on the so-called rate relationships.

THE WITNESS: That has reference primarily to western Canada.

MR. FRAWLEY: Pages 57 and 58.

THE CHAIRMAN: You have taken note of this United States case, Mr. Covert?

MR. COVERT: Yes, Mr. Chairman.

THE CHAIRMAN: The name of it and so on?

MR. FRAWLEY: It is available in the Advance Opinions of the United States Supreme Court Reports which are available in the library of the Board of Transport at Ottawa as well as in other libraries.

THE CHAIRMAN: You are familiar with that case?

MR. FRAWLEY: Yes. Mr. Matheson brought it to the attention of the Board in the 21% case, and Mr. Smith argued it.

THE CHAIRMAN: I thought it was a very recent case.

MR. FRAWLEY: I meant the 20% case, the last proceedings, when we left in April.

THE CHAIRMAN: Q. Are there any other points, Mr. Matheson?

A. Yes, sir. At page 3855 you asked a question there about a case reference, and I said I would get the page. I will give you the volume from memory, but I cannot give you the page number. This had to do with the so-called Crows Nest Pass, and if the railways needed that revenue, or if the railways could not stand an increase, what was going to happen, and referred to that in a discussion of two decisions, and you said you wanted a quotation there. It is 17 J.O.R. & R., 156 to 157, in which is quoted part of the judgment in 15 J.O.R. & R., page 277. Now, I think that covers these various loose ends I had in mind.

THE CHAIRMAN: Shall we come now to where Mr. Matheson left off?

MR. COVERT: Page 124.

THE CHAIRMAN: Capital structure of the Canadian National Railways.

MR. COVERT: Capital structure of the Canadian National Railways. Now, there may be some questions about this, Mr. Matheson, which you may not be prepared to answer. But I thought, Mr. Chairman, that I would like to get them on the record so that, if either the Maritime Board of Trade wanted to answer them later, or a province wanted to deal with them, they would be on the record. But you may answer them, Mr. Matheson, if you are able to do so.

MR. COVERT: Q. I gather that the Maritime Board of Trade is in favour of a review of the capital structure of the Canadian National -- is that right?

A. That is correct.

Q. We would like to know if the Maritime Board of Trade is of the opinion that it is desirable to review the capital structure of the Canadian National, in order to bring it into line with other class one railroads?

A. That was our case in Ottawa.

Q. What, in the opinion of the Maritime Board of Trade, are the advantages to be gained from a revision of the capital structure of the Canadian National Railways?

A. As stated in my brief at page 124, it is conducive to greater incentive and encouragement to the management of the railways.

THE CHAIRMAN: Q. You are talking of a reduction?

A. No. I am speaking of the fixed charges.

Q. Yes; but what would you do with them? You say: revise them. But how revise them? What kind of a revision would you favour?

A. The proposal of the Canadian National Railways itself before the House of Commons Committee is that their fixed charges should be reduced, and we subscribe to that proposal.

Q. So you second their proposal; I see. Now, we know that. All right.

MR. COVERT: Q. My next question is: those were the only things which you had in mind?

A. That is the only aspect our Commission considered, Mr. Covert.

Q. Yes, to produce greater incentive and encouragement in the enterprise?

A. That is right.

Q. On what basis would such a revision be made? Should primary consideration be the earning power, or should some consideration be given to asset values?

A. That is an aspect, Mr. Covert, that I do not feel competent, really, to go into. That is a matter which I believe the accountant for the province will, no doubt, be prepared to give a statement on.

Q. The next question is, -probably you won't want to answer it, but I would like to have this on the record for the benefit of the accountants, if they are later called.

Is it the opinion of the Board -- and by that I mean the Board of Trade -- that the assets should be revalued or do they believe that any revision should be confined to an adjustment or rearrangement of the funded debt and the equity position?

A. That, again, is for the accountants to consider.

Q. Then, this question you won't answer, but I shall just ask it for the record.

If they believe the assets should be revalued, what method do they suggest should be used?

(a) An appraisal.

(b) A valuation based on miles of line.

(c) A valuation based on earnings.

(d) Some other method.

A. That again, I say, is something that the accountants should answer.

Q. Has the Maritime Board of Trade any views as to whether non-paying lines should be taken out?

A. You mean abandoned?

Q. Yes?

A. That is a very difficult thing.

THE CHAIRMAN: Pardon me. Would you complete your question? When you say "taken out", what would become of them? What would happen to them?

MR. COVERT: I meant for the purposes of revaluation.

THE WITNESS: Oh, I see. You mean, not to lift up the tracks?

THE CHAIRMAN: No, just to disregard them; isn't that it?

MR. COVERT: Yes.

MR. FRAWLEY: Q. Disregard it for freight rate making purposes?

A. It is definitely my view that that should be so. Public policy necessitates -- take for example, the Newfoundland railroad, which had a deficit last year of something like \$1,900,000. I have not got the exact figure here. And their deficit, possibly, this year might be substantially higher. But that should not be a factor. That is a matter of national policy and it should be looked upon for what it is, and not as something for the management to burden themselves with. In other words, it should be paid by the Government to the railways.

MR. COVERT: Q. Perhaps I should not ask you this, and if you do not feel like answering, it will be all right. It is as to who should determine, and what method should be used in determining whether a line is a paying or a non-paying line?

A. What method should be used to determine whether it is a paying or non-paying line? I believe that is an accountant's problem as well.

MR. O'DONNELL: You say, who would determine. You mean, always, with respect to its proposed value?

THE WITNESS: The Canadian National accountants may have certain ideas about that, as well as the provincial accountants.

THE CHAIRMAN: Is the proposal behind that that all the non-paying parts of the line should be disregarded in arriving at the capital structure? Is

that the idea?

MR. COVERT: Q. Yes. And I suppose that depends on whether earnings are the main factor involved.

A. There are a considerable number of angles to be taken into consideration.

Some branch lines on some railroads, light traffic lines -- you would not consider some of the branch lines on some of the most profitable railroads in the United States as being paying segments of the railroads. There has to be some balancing there, and I think the whole field must be looked into as to burdens and benefits, looking into all the aspects.

Some branch lines, while they are a losing proposition, might be recognized as being very good feeders.

MR. FRAWLEY: The Northern Alberta Railways would be an example of a feeder line which is now paying its way on its own.

THE CHAIRMAN: Suppose the whole system, does not pay its way. What are you going to do?

MR. FRAWLEY: Perhaps the Canadian National Railways today are fortunate.

THE WITNESS: Perhaps their position is due to the fact that they have a lot of losing roads saddled on them.

MR. FRAWLEY: As my learned friend Mr. Shepard says, then we will have a Royal Commission on them.

MR. O'DONNELL: Q. At what period of time are these roads to be reviewed for valuation purposes? A line might be non-paying one year, but paying another year?

MR. COVERT: I gather that Mr. Matheson did not feel qualified to answer.

THE CHAIRMAN: I suppose you are simply putting forth problems now so that you will be prepared to meet them when the time comes?

MR. FRAWLEY: I am glad Mr. Covert is doing this, because we were wondering what sort of things were in the minds of the Commission, before we prepared our case.

MR. COVERT: I am not sure that I am doing quite that.

MR. O'DONNELL: We assume that your right-hand knows what your right hand does.

THE WITNESS: It is a method of approach at least, Mr. Frawley.

MR. COVERT: I want it to be made clear that the questions I have asked are not put in by any member of the Commission. But it appeared to me that they might be important; and the same would apply, I suppose, on the question as to the lines which have been built for national defence?

THE WITNESS: Definitely.

MR. COVERT: Q. You may have your opinions, but they would not be helpful. Who would determine, for instance, what lines were built for national defence, or what are important for defence, now?

A. Have you in mind any line in particular?

Q. No, I have not.

A. Of course, the Intercolonial Railway would be

looked upon as being something for national defence. In fact, historically, it was built 250 miles longer for national and strategic purposes. That is definitely laid down historically. And then, too, its aspects with respect to export and import rates; the structure to be maintained, the railroad in the event of hostilities, so that you would have a sufficient organization that could be put to work immediately in the interests of national defence.

I believe that, subject to checking, there are statements along that line in connection with national policy in the United States, but I will check on that. That is one of the reasons why there are subsidies paid on United States air lines.

Q. Mr. Chairman, the next is Part 4. I think I could probably finish this in the six minutes before one o'clock.

THE CHAIRMAN: Very well.

MR. COVERT: Q. The questions I have to ask are very few. Now, if you will turn to page 126 of your brief, you will note that it deals with presentday accounting methods and statistical procedures. And on page 128 the recommendation of the Maritime Board of Trade appear. They say:

"It is therefore recommended that there be enacted such legislation as might be required to establish uniform accounting regulations for Canadian railways under the statutory authority of the Dominion, and to that end the requirements of Section 20 of the U.S. Interstate Commerce Act

be considered for application in Canada in such form, and in such manner as would be appropriate for Canadian railways."

Again, I have a series of questions to ask which, perhaps, had better be directed to accountants. But I propose again to ask them of Mr. Matheson and put them on the record; and if he feels qualified to answer any one of them he may do so.

First, in the recommendations, they also deal with segregation of assets and so on, and I wanted to ask: Do the recommendations regarding segregation of freight in passenger expenses mean that the Maritime Board of Trade believes that this should be done by the railways as part of their day-to-day accounting procedure; or do they mean the establishment of standard rules for subdividing expenses at the end of the year?

A. My answer to that is that they should be set up somewhat the same as in the United States, and filed with the Interstate Commerce Commission. I think it should be done along analogous lines.

Unfortunately, I was unable to locate my pamphlet on the breakdown of passenger and freight in the United States. Whether it is dealt with monthly, or yearly, and so on -- but along the line of Section 20, I think it would be a good guidance for them to follow and whatever the basis is to be used now, there is a breakdown in connection with the Canadian National Railways with regard to their land traffic. They issue it. I do not know whether Mr. O'Donnell can answer that or not. Do you know if it is daily, Mr. O'Donnell?

MR. O'DONNELL: We intend to go into that in detail later. I have certain ideas with respect to it, but in order to give any comprehensive statement --

THE WITNESS: I have sent for another pamphlet, and as soon as I get it I will let you have it. I think, that my answer to that is, to follow along the same lines as the United States.

MR. COVERT: Q. If you had said it should be a daily matter, then I would have asked you what would be the gain in requiring this to be done on a day-to-day basis rather than on a periodical or annual basis.

A. I think, periodical would suffice the purposes in Canada.

Q. Is that the view of the Maritime Board of Trade, that freight and passenger service -- would it be an advantage for them, aside from the cost of operation?

A. It is generally recognized that taking the passenger service as a whole, both of Canada and of the United States, they are a losing proposition.

But what did Mr. Stevens say before the Interstate Commerce Commission the other day, in expressing the matter?

MR. FITCH: Mr. Stevens stated that there is in the vicinity of \$560,000,000 loss in passenger service in the United States, which would include baggage service, mail service and other auxiliary services; and that the shippers felt that recent losses of the passenger service were being loaded onto the

freight shippers, through increased freight rates; and such a breakdown of passenger services, vis-a-vis the freight services, has proven most valuable to the Bureau of Economics and Transportation of the Interstate Commerce Commission.

THE CHAIRMAN: We shall adjourn now.

---At one p.m. the Commission adjourned until 2.30 p.m.

(Page 4444 follows)

AFTERNOON SESSION.

Halifax, N.S., July 20, 1949

RAND H. MATHESON, recalled.

MR. O'DONNELL: May it please the Commission: Just before the adjournment when we were talking of accounting methods and of the possible segregation of expenses as between passenger and freight, I indicated that we would have that information at a later time, but, in the event that it may be of interest to the Commission and that you might wish to go into the matter before the railway present their case, the rules concerning that matter insofar as it is handled by the Interstate Commerce Commission will be found in pamphlet form in an issue of the Interstate Commerce Commission entitled "Rules Governing the Separation of Operating Expenses, Railway Taxes, Equipment Rents and Joint Facility Rents between Freight Service and Passenger Service on Large Steam Railways." I think the latest edition is that which was issued in 1935, effective the 1st January, 1936.

As I understand it, generally speaking, the direct expenses which can be allocated immediately to passenger or to freight are charged daily and account is kept of them on a daily basis; the indirect expenses which cannot be allocated either to the one service or the other are prorated at the end of the year. All this information, on my understanding, is informative statistical information rather than strictly actuarial, on an accountancy basis.

THE CHAIRMAN: This part of the Order in Council which is recited in the brief talks also of the

segregation of revenues and Other Income as between railway and non-railway items and so on; but you are not questioning Mr. Matheson about that?

MR. COVERT: All I am doing is placing some questions on the record, Mr. Chairman. As a matter of fact, I have five more questions that I want to put in.

EXAMINATION CONTINUED BY MR. COVERT:

Q. The fourth question was: What additional information, if any, other than passenger and freight costs, does the Maritime Board of Trade suggest should be made available to the public?

A. My answer in regard to that is that we have not given any further consideration --

THE CHAIRMAN: Q. Would you turn this way, Mr. Matheson, so we can hear you?

A. I am sorry, sir. My answer to that is that this Commission has not given any consideration to any other further segregation.

Q. Excepting that between passenger and freight service?

A. Passenger and freight service.

MR. COVERT: Q. The next question, the fifth question: Does the Maritime Board believe that non-railway assets and revenue should be segregated? And the sixth question: Which assets of either the C.N.R. or the C.P.R. should be considered as non-railway assets?

A. In reference to both those questions, that would be a matter for the accountants.

Q. And the seventh question: How should any such segregation of assets be applied in dealing with the

funded debt and equity position? In other words, if you reduce or remove some items from the assets section of the balance sheet a corresponding reduction must be made on the liabilities side; what proportion of any such reduction should apply to funded debt and what proportion to owner's equity?

A. That again is a matter for accountants.

Q. And the last question on this section: Should the segregation be made on the basis of cost, present book values, market values, where they exist, or on some other basis?

A. That again would be for the accountants.

MR. SINCLAIR: I presume that the answers to those questions will be filed in some kind of written form so that we can have them available.

THE CHAIRMAN: Well, you see, Mr. Matheson may not answer them at all, nor his Association. They are just raised here. The brief does not undertake to deal with them. He is dealing only with the matter of passenger as against freight rates. But somebody : will have to give us the material, I might say on both sides of this question, because there are two sides to it, as appears in that judgment, and we hope to be able to elucidate it, at least to understand it ourselves. The working out of it is a matter of accountancy, of course, but I do not think you must expect Mr. Matheson to furnish you with all the information you are going to get on it.

MR. SINCLAIR: Well, whatever he did put on the record, or whatever the Board did put on the record, that is, the Maritime Board of Trade --

THE CHAIRMAN: You see, you must take this brief as it is, and it does not deal, as far as I can see, beyond the question of passenger and freight rates.

THE WITNESS: That is right, sir.

MR. COVERT: Q. The next, Mr. Matheson, is Part Five of your brief, commencing on page 129. In the second paragraph you say, considering general revenue cases, the B.T.C. should have authority to consider possible economies by the railways to improve their net revenue position apart from rate increases. This has to do with the C.N.-C.P. Act and I just wanted to ask you if this is not a very difficult matter to determine, and whether or not you are suggesting that the railways are not co-operating, and also if the B.T.C. is in a position to tell the railways what to do to make economies?

A My answer, first, to that, is that I am not in favour of what they call enforced co-operation if it can be avoided. Your question would imply that there would be an element of enforced co-operation there. The purpose of this Section in my reply is that the Board should have the power to look into the question of future and past economies, and that there should not be any doubt in that connection. Now, I gather, too, that that might involve an element of investigation on the part of the Board. I would say yes, to look into how far they have gone in connection with their proposals in connection with pooling, to look over and peruse the statements or the studies of the railways, the committee studies, as to burden and benefit in regard to any pooling arrangement;

that would apply both with respect to passengers and using the same line where there are two parallel railroads. I think that the Board should have power to look into that.

Q. Isn't that a matter that has been studied, for example, on several occasions in several different years by the Railway Committee of the Senate?

A. I do not believe that the Railway Committee of the Senate has gone into each individual case with the railways and considered it. Now, I might be wrong in that respect, and I would not want to answer that definitely. I know that the Railway Committee of the Senate did say there should be a greater effort on the part of the railways towards co-operation in the line of the C.N.-C.P. Act of 1933.

Q. I had in mind that that had been investigated on several occasions, and I was wondering whether you felt that the B.T.C. was in a better position than the Senate Committee?

A. The principal purpose of this is that there should not be any doubt in regard to the Board of Transport Commissioners' powers to look into the economies in connection with the co-operation, particularly where the Act has been laid down, and that they should avail themselves of all the information that is available to make a determination of it.

Q. On page 130 you suggest that the B.T.C. be given the necessary powers to make such allowances, and I was wondering if by "allowances" there you meant orders, as might be reasonable when it finds that in the public interest co-operation and other measures could effect certain economies?

A. No, I do not mean orders there; allowances in connection with what economies could be saved.

THE CHAIRMAN: Q. I beg your pardon?

A. Allowances in connection with what economies could be saved, when they come to appraise an application for increased freight rates.

MR. COVERT: Q. Then, in other words, if you mean the word "allowances" there, you say then that if the railways make an application, for example, for a general freight rate increase, the B.T.C. should be able to look into this thing, find out how they have been co-operating, whether or not economies could be effected, evaluate them, and then say, "Well, now, you have asked for so much, and we think you can save so much if you co-operate under the C.N.-C.P. Act, and therefore we will give you that much less"?

A. That is correct.

THE CHAIRMAN: Q. How long has this Act been in effect? It was passed in 1933. Your brief does not give us any instances of cases where you think there might have been co-operation and it was not done?

A. No, sir.

Q. You give us no cases at all?

A. No, sir, I did not go into the full ambit of that.

Q. Were any such cases brought to the attention of the Board of Transport Commissioners on these applications?

A. I do not know personally of any being referred back to the Board under the authority that was left there in the Act for the Board to consider. I do not know of any being referred back to the Board.

Q. I mean, did those interested provinces, for

instance, and associations such as yours point out to the Board, "Now, here is a place where there might have been co-operation, and co-operation was not done"? Are there any such cases as that?

A. Not that I know of, Mr. Chairman.

MR. FRAWLEY: Perhaps I should say, my lord, that we took the position that there was an onus on the railway coming in and making out a case or endeavouring to make out a case of financial need, that they must first satisfy the Board that they had taken every conceivable means under the C.N.-C.P. Act to effect economies and therefore effect a betterment in their financial position, and that until that onus was discharged the Board was not able to say that they were in financial need. That is as far as we went, sir. We did not explore the C.N.-C.P. Act as such. We simply took the position that the Board was unable to find financial need until the railways had discharged what we said was the onus upon them in that case.

THE CHAIRMAN: Do you mean to say, then, that the railways were asked to prove a negative, that is, to prove that they had not neglected any particular kind of co-operation?

MR. FRAWLEY: I think I would agree.

MR. O'DONNELL: That was their suggestion.

MR. FRAWLEY: In sum that was the position we took before the Board, that it was an undischarged onus upon the railways, because they were coming in and pleading poverty, pleading financial need -- as Col. Ralston used to put it, pleading poverty.

THE CHAIRMAN: Do you suggest also, Mr. Frawley,

that those who are affected by railways in their own area can have some notion of where co-operation might take place and has not taken place?

MR. FRAWLEY: When we come to make our submissions on that section in your lordship's commission, it will be quite a different approach then, sir. We will discuss the thing fairly completely. But your lordship raised the question of what position we took in the revenue case; that was the position we took in the revenue case. We simply said there was an onus there that had not been discharged. But I think your lordship's Commission goes further, and directs the Commission to investigate pretty well everything about this Act.

THE CHAIRMAN: But do you mean to say that every time they have an application for an increase of rates they must investigate the whole of Canada from east to west

MR. FRAWLEY: The Commission?

THE CHAIRMAN: The possibility of a co-operation here, a co-operation there, that was not accomplished.

MR. FRAWLEY: Oh, I would not think so, no, my lord.

THE CHAIRMAN: Would it not be much easier for those interested in the various areas and in the various lines of shipments to say, "Now, here there ought to have been co-operation in New Brunswick at a certain point and there is not"?

MR. FRAWLEY: Yes, I think that would be--

THE CHAIRMAN: And then the railways would have to explain why they did not co-operate.

MR. FRAWLEY: That may be, sir.

THE CHAIRMAN: That would be an easier approach.

MR. FRAWLEY: That would stand side by side, I say,

with respect to the approach we took. We simply said, "Now, there is an onus. Satisfy the Board when you are pleading poverty that you have done everything to put your own house in order financially." In effect that was our position before the Board.

THE CHAIRMAN: I suppose they simply answer, "Yes, we have done all the co-operating possible."

MR. FRAWLEY: They did not say very much. They took the position that it was the function of the Board -- if your lordship will read the judgment, they took the position that the Board had very limited powers under that Act, which was a sort of confession and avoidance, if I may say so, my lord. That was not our point at all.

MR. SPENCE: We took a much broader position than that, my lord. We took the position that that would effectively block any possibility of a rate increase, regardless of the merits, if it was necessary to hold an inquiry into co-operation all over Canada before a rate increase could be considered.

(Page 4456 follows)

MR. O'DONNELL: Not only that, but we took the position that the authorities that our friends invoked in support of that argument were American authorities which were of no application here inasmuch as our law was quite different. That is what the Board found. At page 40 of the Judgment the Board found:

"The Canadian National-Canadian Pacific Act does not confer upon the Board any duty or authority to require the railway to study and undertake cooperative measures with a view to effecting economies, or to review and investigate what measures they have taken, or might have taken under such Act. As indicated during the hearing this is not a matter which would seem to invite special enquiries on our part. Nothing can, therefore, be gained by entering upon any extended discussion of the subject at this time."

We pointed out that the Canadian law, and the arrangements we have in Canada, are quite distinct and quite different from those involved in the United States. We pointed to the Canadian National-Canadian Pacific Act, particularly section 14, which requires the railways each year to report on these matters directly to Parliament. Parliament has retained for itself the review of these matters.

THE CHAIRMAN: What does the Act say?

MR. O'DONNELL: Section 14 says:

"The Board of Directors" -- that is the Canadian National in this case --

"shall make a report annually to Parliament

in a summary manner the results of their operations, any co-operative measures, plans or arrangements effected pursuant to this Act, any economies or more remunerative operation thereby produced, the amounts expended on capital account in respect of National Railways", and so on.

We have to make a report directly to Parliament each year as to the co-operative measures, and then the Act further provides that, where there are cases that one railroad might consider would justify co-operative measures, there is provision in section 16 and following, part 2 of the Act, and in part 3 there is provision for an arbitration board in case of disagreement.

Our setup being entirely different from that which prevails in the United States, we suggested that the authorities that the provinces invoked were of no application, and the Board found accordingly.

THE CHAIRMAN: What is the machinery in the United States?

MR. O'DONNELL: I have not looked at it for quite a while, but my memory is that in the United States when the railways come forward and ask for a general increase in freight rates there is some obligation on them to put forward some positive evidence concerning co-operative measures. As I understand it, it is a rather formal procedure. There is an allegation that they could not procure additional revenues by means of any further co-operative measures, and that is about the extent to which it goes, although the Interstate Commerce Commission would have jurisdiction to inquire into the

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matter if it were pertinent in a given case. The reverse is the situation here in so far as the Board of Transport Commissioners are concerned.

COMMISSIONER INNIS: There is co-operation between railway counsel.

MR. O'DONNELL: That is here all the time.

MR. COVERT: My understanding is that this recommendation says in effect that they recognize the attitude that the Board of Transport Commissioners has taken, and that they have not this power, and Mr. Matheson says they should have this power.

THE CHAIRMAN: That they should be given power to compel the railways to show where they have co-operated, I suppose, but even if they did that would not clear up the situation. They might say, "we have co-operated on a certain line in New Brunswick and a certain other line in Saskatchewan", but how would we know that they had done all they could in the way of co-operation unless those who are interested locally in the different parts of the country, such as these boards of trade, and so on, or provincial governments, are themselves interested in looking around them and pointing out, making it known by saying, "we think there should have been co-operation here and there." Have you ever considered that?

THE WITNESS: No, I have not, Mr. Chairman.

THE CHAIRMAN: You know of no case in the Maritimes where you would say that there might have been co-operation and it was not brought about?

THE WITNESS: I have not investigated it.

MR. FRAWLEY: I think I should quote one short

passage from the Judgment, in addition to what my friend, Mr. O'Donnell, just quoted, because this sets out rather clearly what the provinces were saying.

"The respondents advanced the argument that because of the provisions of The Canadian National-Canadian Pacific Act, 1933, the Canadian National Railways and the Canadian Pacific Railway Company should be required to show that they had, as between themselves, carried out all co-operative measures, plans and arrangements possible to effect economies and produce more remunerative operation, as directed by the said Act, before any increase in freight rates is allowed."

That was our position, and then with respect to that the Board seemed to have gone off on another tangent, because they say,

"The Canadian National-Canadian Pacific Act does not confer upon the Board any duty or authority to require the railway to study and undertake co-operative measures with a view to effecting economies, or to review and investigate what measures they have taken, or might have taken under such Act.

As indicated during the hearing this is not a matter which would seem to invite special enquiry on our part. Nothing can, therefore, be gained by entering upon any extended discussion of the subject at this time."

With respect, the Board seems to have missed our point. It was not that we were complaining about what they had done or had not done under the Act, but we said that was

something as to which the railways should be required to satisfy the Board in that revenue case as to whether or not they had done anything.

THE CHAIRMAN: As I remember it the Act directs the railways to co-operate, does it not?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Suppose then that a further provision is made that the Board of Transport Commissioners should, from time to time, require the railways to show them, the Board, that they are co-operating. How far would the Board go in exacting any evidence? Suppose the railways came before them and said, "Yes, we have pooled certain trains between Montreal and Toronto, and Montreal and Ottawa, and we have put one of our branch lines out of use because there were two." When they get through enumerating what they have done, if there is no one else there like yourself to say, "You should have done something else in Alberta and you have not done it", then how is the Board going to find that there is something left undone?

MR. FRAWLEY: So far as the Board is concerned, at least they would have something placed before them as to what the railways have endeavoured to accomplish. Our point was that in that hearing witness after witness went on the stand. We examined them and they said, "No, nothing on the agenda", "nothing done at the moment", "not doing anything." That was the tenor of the argument we placed before them.

MR. O'DONNELL: The tenor was that we did not have to go into that matter before that tribunal, that Parliament has reserved unto itself that type of inquiry

and that there was no use going into it.

MR. FRAWLEY: I accept that.

THE CHAIRMAN: Mr. Frawley says that the jurisdiction should be transferred from Parliament to the Board.

MR. FRAWLEY: I have not said anything yet. I have not made any substantive submission on this statute yet.

THE CHAIRMAN: That is what Mr. Matheson says.

MR. O'DONNELL: That is what it involves.

THE CHAIRMAN: Mr. Matheson does say that the Board should be given the power to review the application of this co-operative legislation. That is what you say?

THE WITNESS: Yes.

"Any doubt as to the authority of the Board of Transport Commissioners under existing law to give consideration to possible economies from co-operation of railroads in general revenue cases should be resolved", and so on.

THE CHAIRMAN: It is on page 129.

"Review and report on the results achieved under the Canadian National-Canadian Pacific Act, 1933, and amendments thereto, making such recommendations as the present situation warrants."

That is our duty. We have to report on the results achieved, and so on. I must say that I rather expected that from place to place we would hear people say, "Now, here is the result in New Brunswick. For instance, this might have been achieved and was not achieved." However, we have not heard any such statement yet.

THE WITNESS: I did not make a study of that.

THE CHAIRMAN: Q. Your Association does not go into that?

A No.

Q We have to report on the results achieved, but the furthest you go is to say that the Board of Transport Commissioners should be given power to go into these things?

A To look into the economies, to see if they have carried out the Canadian National-Canadian Pacific Act, the same way as the I.C.C. had the power in the United States during the period 1933-36.

MR. COVERT: I think perhaps while we are at this stage --

THE CHAIRMAN: That leaves the question open for us to report upon, the extent to which co-operation has been put into effect. We must report upon it.

THE WITNESS: I appreciate that, Mr. Chairman, but we did not go into that.

THE CHAIRMAN: So we must expect to hear more from it, and if any parties think there has not been sufficient co-operation in any particular part of the country we should be told about it.

MR. FRAWLEY: After we hear from the railways.

MR. SINCLAIR: Oh, no.

MR. O'DONNELL: You are complaining.

MR. FRAWLEY: The railways cannot say to this Commission that they are not here to tell you what economies they have made.

THE CHAIRMAN: They will not be allowed to say that either.

MR. O'DONNELL: We do not say any such thing.

MR. SPENCE: It might be useful to put on the record a list of the co-operative measures that we have performed in the Maritimes, which I have before me here.

THE CHAIRMAN: You have the information?

MR. SPENCE: Yes.

THE CHAIRMAN: Had you not better put it in writing? It must be rather technical.

MR. SPENCE: It will only take a moment to read it.

Fredericton-Vanceboro, Canadian National running rights over Canadian Pacific; Canadian Pacific handle Canadian National traffic.

Union station at Fredericton which is used co-operatively by the two railroads.

Fredericton bridge. Canadian Pacific has running rights over Canadian National Bridge.

Cyr-Edmunston - there is a co-operative abandonment, partly Canadian National, partly Canadian Pacific, with each company using the line of the other company a part of the distance. There are joint running rights over the lines of the Canadian National and Canadian Pacific for the parts of track that remain and that have been connected.

The union station at Saint John, where the Canadian Pacific use the Canadian National station.

Then the Canadian National use the Canadian Pacific line between Saint John and Westfield beach.

Then there is a joint car department at Saint John, which is under a joint co-operative agreement. The Canadian National service Canadian Pacific passenger

cars at Saint John.

The next item is the use by the Canadian Pacific of the Canadian National station at Norton.

The Canadian Pacific use the Canadian National line from Windsor Junction to Halifax.

The Canadian National use the Canadian Pacific station at Middleton.

The Canadian National use the Canadian Pacific track to gain access to the wharf at Yarmouth.

The Canadian Pacific use the Canadian National station at Truro, and there is a joint agency at that point.

Then there is a joint agency in the Canadian National station at Windsor Junction.

There is also a joint agency at Bedford.

Those points are all the points of contact between the two railways in the Maritimes, with one very minor exception at Chipman.

THE CHAIRMAN: Is there any estimate made there of the savings effected by this?

MR. SPENCE: I have not an estimate of the savings at present.

THE CHAIRMAN: You have not?

MR. SPENCE: No, but I will attempt to obtain that.

MR. SMITH: I might venture to suggest that the Canadian National-Canadian Pacific Act was passed as a result of recommendations which were made by the Duff Commission, and in which will be found very full details of the lack of co-operation, and the competition which

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took place between the railways preceding the Duff Commission report. When the Act comes to be considered by the Commission I suggest that it would be well to consider the provisions of the Act in the light of the Duff report.

THE CHAIRMAN: Yes, of course.

THE WITNESS: There are two things that arise from that statement of Mr. Spence. I should like to know - and I think perhaps the Commission would like to know - the number of those that were co-operative arrangements before the Canadian National-Canadian Pacific Act was put into effect. For example, the running rights between Windsor and Halifax were before the C.N.-C.P. Act. I think it would be interesting to have those.

MR. SPENCE: I do not know the exact number at the moment, but there were some.

THE CHAIRMAN: The dates will be given in each case.

THE WITNESS: Another question that occurs to me that would be of interest is what other arrangements, pooling arrangements or co-operative arrangements were considered where there was a committee established to consider the burden and advantage, but there was nothing resolved from it. I think those would be important to have as well, not only here, but all across Canada.

MR. O'DONNELL: That might be an endless thing.

THE CHAIRMAN: Q. Where the railways may have considered co-operation and decided against it?

Where they probably got into a dispute over it. There are a lot of cases, proposals, where the burden and advantage are considered, but nothing comes of them.

Q Our duty is to review and report on the results achieved under the Act.

MR. FRAWLEY: The railways might file the minutes of the meetings of the co-operative committee.

MR. O'DONNELL: We could do a lot of things, but the point is suppose we did consider a thousand of these cases and then they went by the board. Surely to goodness we are not going to clutter up the record with all the considerations which ultimately motivated these decisions one way or the other. All the Commission is interested in is what was effectively done. That is all Parliament asks for, what arrangements have been effected pursuant to the Act. The fact that the railways may consider a whole array of projects and discard them surely cannot interest anyone.

THE CHAIRMAN: Offhand I would not accept that; we would have to consider it because we are asked to report on the results achieved and to make such recommendations as the present situation warrants.

MR. O'DONNELL: I agree with that.

MR. FRAWLEY: Why would it not be important to know the number of co-operative schemes, so-called, that were considered and rejected, and the reasons therefor? I think that would be of great importance to the Commission.

MR. SINCLAIR: On behalf of Mr. Frawley and the other western provinces, on the 13th of May Mr. Shepard wrote a letter to the two railways asking them for certain information. We have replied and have told him that we are getting certain information and in due course we will give them what we have got and what we think is helpful to him. Of course, as is usual, he put in at the bottom

... ..

that after he had thought over what he had obtained down here he might ask for some more, but we are in the process of answering that letter, and if it is not satisfactory to the provinces no doubt they will let us hear from them.

MR. SHEPARD: We will.

MR. SINCLAIR: I think Mr. Frawley has either forgotten that letter or maybe Mr. Shepard didn't tell him about it.

MR. FRAWLEY: I told the Commission that we would make submissions after we had heard from the railways.

MR. O'DONNELL: We will make a submission at the proper time and place.

COMMISSIONER INNIS: That will be a joint presentation.

MR. O'DONNELL: Yes. I do not know anything about these particular items that my friend referred to. I assume the list is correct. We may have some others that we think are co-operative measures.

MR. SHEPARD: The same letter was written to Mr. MacMillan, General Counsel of the C.N.R.

MR. O'DONNELL: That may be. He gets a lot of letters.

THE CHAIRMAN: Perhaps, Mr. Frawley, you could make the matter clear. If you know of any cases in Alberta where co-operation might have been desirable and might have been brought about, and has not been brought about, you might let us know that.

MR. FRAWLEY: I am surprised that my friends of the Canadian Pacific and the Canadian National have not already brought to the attention of the Commission something

they were very fond of bringing to the attention of the Board of Transport Commissioners. I refer to the fact that whenever they went out into the west to abandon a line they found people, sometimes instructed by the provincial government, offering some objection to the abandonment of the line because certainly it was thought in the interests of the community the matter had to be carefully investigated and both sides of the case presented before the Board of Transport Commissioners. It seems that the difference between some of the western provinces is that in most of the Alberta cases the railways secured the abandonment order whereas in some of the other provinces the abandonment order was refused. In any event that has gone on. There is nothing for us to apologize for about that. As I say, that was the favourite answer my friends used to give the Board of Transport Commissioners. I am surprised they have forgotten.

MR. O'DONNELL: You forget that the point in the proceedings has not been reached yet where we have anything to do except listen to a lot of other people. When it comes to our turn we will give the fullest information.

THE CHAIRMAN: All right. I think perhaps the atmosphere is a bit clearer.

MR. COVERT: I did want to make the suggestion that it is conceivable to me at least that a province might find no lack of co-operation, for instance, in Alberta. There might be none, but their argument might go so far as to say, "we are highly interested in the degree of co-operation in Ontario and Quebec and we have no means

of finding that out."

THE CHAIRMAN: Certainly.

MR. COVERT: I also wanted to put on the record at this stage, for the purpose of making it easier when one is reviewing the evidence, a reference to section 15(a), subsection 2, of the Interstate Commerce Commission Act. I think it is out of that that this question arises. That has reference perhaps to some of the decisions of the Interstate Commerce Commission.

Q I wanted to ask Mr. Matheson if he felt it was fair to say, after having heard him this morning in connection with the quotation from the case at the bottom of page 129, that that admonition is really now out of date in view of the fact that that Act has been allowed to expire in the United States, the Act referred to this morning?

A That is what I would gather, yes, from checking over this matter over the week-end.

Q I should also like your views on this question. Is it also fair to say that at that stage, in both the United States and Canada, there were strong suggestions that great economies could be effected?

A Right.

Q Perhaps that is why that Act was put in in the United States, and a corresponding, and perhaps similar Act, the C.N.-C.P. Co-operation Act in Canada?

A I believe that is a parallel situation.

Q I think that is all the questions I have on part 5.

MR. SMITH: Do you think the report of

the Duff Commission should be made an exhibit?

THE CHAIRMAN: Pardon?

MR. SMITH: I suggest that the report of the Duff Commission be made an exhibit.

THE CHAIRMAN: We have the report of the Duff Commission.

MR. COVERT: We have it.

-Page 4470 follows-

THE CHAIRMAN: We have the report, have we not?

MR. COVERT: Yes, we have it.

MR. SMITH: It was considered in the freight hearing, I know.

THE CHAIRMAN: It was the recommended legislation put into effect, and it is still effective. Other things may have been repealed.

THE WITNESS: There is one distinct difference between Canada and the United States. In Canada the Canadian National-Canadian Pacific Act is still on the statute books.

THE CHAIRMAN: Yes.

MR. COVERT: Q. Would you turn to page 131, Part 6, of your brief, dealing with "Transportation Legislation and Other Features of the Railway Act under changed conditions."

In the first paragraph you say:

"A major objective for the future must be the maintenance of a low level of rates and fares in the transport industry in order that restrictions in the movement of long distance traffic may be minimized."

THE CHAIRMAN: Where is that?

MR. COVERT: That is in the first paragraph, and it is line six down.

"Meanwhile, its retention of merchandise business depends upon the successful development of various methods of co-ordination."
First, it seems to me that you suggest that the profitable

business of the railways was, perhaps, the short hauls; and that it has been breaking away from them because of motor truck competition, and that it is now depending on the long haul for its revenue. Is that correct?

A. That is correct. The tendency is more and more for them to lean towards the long haul traffic. The short haul high valued merchandise traffic has been particularly flexible because of the trucks; and I gave some statistics there indicating what the truck traffic was in the United States. But I do not know what the similar pattern is in Canada. It shows high valued merchandise.

Q. Are you also suggesting there that a major objective for the future must be the maintenance of low level of rates and fares, and that that should be a major objective in order to create more traffic on the long haul?

A. That is a question of importance.

Q. Would you explain the last sentence in that paragraph:

"Meanwhile, its retention of merchandise business depends upon the successful development of various methods of co-ordination."

What did you have in mind there?

A. Well, our Commission has in mind the co-ordination of transport services wherever possible, various media of transportation, if necessary, in order to effect economies and to attract the traffic.

Q. Have you anything in mind about the elimination of cut-throat competition there by co-ordination?

A. What do you mean by cut-throat competition -- Competition between regulated truckers?

Q. Yes. And if I have drawn an inference which is not properly drawn from it, I would like you to say so. I wondered if you had anything like that in mind?

A. I had in mind, Mr. Covert, the question of the railroads themselves co-ordinating with buses and truck companies in order to give the best service possible.

I think there has been a certain element of that already in the Maritimes. Take the case of the Dominion Atlantic Railway; instead of operating way freight services, they have put on trucks, on the Dominion Atlantic Railway, and they supply their customers along their routes in that way. That has effected economies. They take freight up to a certain point on the line where they hand it over to trucks, instead of operating another way freight train on to Yarmouth or Digby as the case may be. Then the truck will take it and deliver the freight en route.

As to supplementary services, I had that in mind in connection with co-ordination.

Q. On page 132, in the last paragraph on the page: " . . . the creation of a national transportation agency would appear essential for the purpose of co-ordinating not only Dominion transportation activities, but also in co-operating with provincial governments in respect of transport services under their jurisdiction. Such an agency would operate independently of the Board of Transport Commission and the Air Transport Board, which would retain

their quasi judicial activities. Its primary function would include the promotion of intra- and inter-agency relationships, and the undertaking of studies directed to the realization of an adequate and efficient transportation system for the wide, equal and complete development of Canada as a whole."

And the last sentence, I take it, means both in peace and war. This, I take it, is something that you are suggesting, something over and above the Board of Transport Commissioners?

A. Yes.

Q. It is?

A. Yes. What do you mean by "above"? Not to supersede it?

A. No.

Q. A co-ordinating body?

A. That is right.

Q. Something to co-ordinate the B.T.C. and the Air Transport Board. And you, apparently, already had in mind that, when you refer to co-operating with provincial governments in respect of transport services under their jurisdiction, you have something which would bring them all together?

A. That is right.

Q. That is an endeavour to treat the whole transportation matter as a national problem?

A. That is right.

Q. And you are suggesting, perhaps, a co-ordinating body, because of possible lack of jurisdiction in one body?

A. That is one thought behind it.

COMMISSIONER INNIS: Q. You are criticizing the Department of Transport?

A. No, there is no criticism directed to the Department of Transport in that respect. I did not have that in mind.

Q. That would seem to be the sort of agency?

A. This would be a sort of research agency set up for the purposes of co-ordination. It could be within the Department of Transport. It could function within that department.

MR. COVERT: Q. On page 133, at the top, you say:

"Section 3, subsection 2(b) of the Maritime Freight Rates Act should be amended since the judgment in the 21% case makes it clear that the words 'while the cost of railway operation in Canada remains approximately the same as at the said date' . . ."

THE CHAIRMAN: Before you go on, I would point out that I notice that the Transport Act says: in section 3, subsection 2:

"It shall be the duty of the Board to perform the functions vested in the Board by this Act and by the Railway Act with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways, ships and aircraft and the Board shall give to this Act and to the Railway Act such fair interpretation as will best attain the object aforesaid."

You do not assert, do you, that the Board has failed, in any respect, in carrying on the duties assigned to it?

A. That is section 3, subsection 2(b) of the Transport Act?

THE CHAIRMAN:Q.Yes, the Transport Act which came into effect on the 1st of July, 1938; and it is section 3, subsection 2.

A. In answer, I believe that the Board has made some studies in regard to that.

Q. No. I mean that the Board is the machinery set up by parliament, but you seem to think it ought to be changed and some other board set up. Why has this Board failed in carrying out its duties?

A. I think my proposal goes a little beyond that of the Board. The present Board's jurisdiction under this would not pertain to the matter of co-operation between the provincial and dominion governments in the matter of trucks, because they have not any jurisdiction over trucks.

This Transport Act does not apply to trucks. On the other hand, aircraft at the present time is out of that section. It used to be in that section, but it is no longer.

Q. That has been struck out?

A. Yes, it has been struck out. It is now under the jurisdiction of the Air Transport Board. So you have your Air Transport Board which is concerned with matters pertaining to air lines, franchises and rates; and you also have the Department of Transport,

which is interested in the safety factors in connection with air lines; and you have the Board of Transport Commissioners concerned with railway freight rates, safety, and water lines on the Great Lakes and the St. Lawrence waterways, as far as the eastern part of the Isle of Orleans, and only as far as the regulation of rates and merchandise traffic is concerned. Then you have, of course, the provincial jurisdiction in the various provinces, under provincial control.

Q. That is the point; nothing to do with truckers and so on, and you heard Mr. Barry tell us yesterday that the New Brunswick government will not consent to handing their jurisdiction over to the railway company. Do you mean that somebody else should be appointed to try to co-ordinate these things?

A. Yes, and to resolve the problems appearing in connection with trucks. For example, in one province the weight on the highways might be restricted to a certain number of pounds; whereas in another province it may be larger, so there is a certain difficulty there if one wishes to truck from one province through another to a given destination, and there should be limitations in respect to going straight through to a destination. If there was such an agency these things might be related and considered.

MR. FRAWLEY: They could be considered, anyway.

THE CHAIRMAN: All right, Mr. Covert.

MR. COVERT: Q. You said at the top of page 133, in your paragraph A:

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"(a) Section 3, subsection 2(b) of the Maritime Freight Rates Act should be amended . . ."

You say that the wording which you quote there is indefinite and consequently capable of various interpretations and applications. Would you explain just how that is indefinite? Look at section 3, subsection 2(b).

A. First of all, this Act pertains to freight rates, the Maritime Freight Rates Act. One thing that occurs to me is, does it include the cost of operation in connection with passenger lines as well as freight rates? That is one point which occurs to me in respect of that, and there are others which I have in mind; but that is one which stands out.

Q. And when you say that it should be amended, just what do you propose? You say:

"It is evident that the intention of that particular part of Section 3, subsection 2(b) is that tolls or tariffs authorized by the Maritime Freight Rates Act as of July 1st, 1927, may be increased or decreased in consonance with general freight rate changes authorized by the Board of Transport Commissioners for application throughout Canada but always maintaining the 'discrimination between' as provided by the Act."

Have you any suggestions to make as to how that should be amended?

A. As to how it should be drafted -- since I am not a lawyer I would probably fall down badly in any drafting.

Q. Are you suggesting that the cost of railway operation should not be the basis, or are you suggesting that you can leave it in, as long as it makes it clear that what you call discriminations between is preserved?

A. Well, here is another thought; and perhaps this will clear it up.

The cost of railway operation in the 1930's might have dropped, and, undoubtedly, it dropped considerably. Yet the railroad showed a great -- I am speaking of the Canadian National Railways, because this is mandatory in the Canadian National Railways -- showed a great deficit.

If there was a revenue case arising from that, they could have come up and asked for a general increase in rates across Canada. But the cost of railway operation may change. It is a variable factor. And I think what is intended there is that the railways, when they find they have a case for justification, or one which they can prove, they come before the Board; and that is what they have, not just the case of the costs of the railway operation, which is a fluctuating thing from year to year.

You are tying yourself to a very fluctuating thing, when you tie yourself to cost of operation in Canada. That could, perhaps, be left over and I could give further consideration to it with the counsel of our provinces to see what could be suggested that would fit in more with what we have in mind, rather than to tie it down to the cost of railway operation. The result would indicate there is some confusion in

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connection with what is really intended.

Q. On the same page, in item B, you say that there should be an amendment to the Maritime Freight Rates Act in compliance with the recommendations of the Duff Commission, and you quote from the Duff Commission:

" . . . steps should be taken to provide for the inclusion of Canadian National Eastern Lines operating accounts as part of the system accounts, so that the Canadian National income deficit shall be all-inclusive."

(Page 4485 follows)

Q. Now, can you clarify that a bit? I do not quite follow that.

THE CHAIRMAN: It is the recommendation of the Duff Report, which Parliament did not accept.

MR. O'DONNELL: That is right.

THE WITNESS: It has not been acted upon, Mr. Chairman, although within the last three or four years the railways are not publishing those accounts and the Department of Transport are not publishing the accounts. Apropos of that, sir --

MR. COVERT: Q. Is it anything beyond a matter of accounting.

A. It is an arbitrary accounting, sir.

Q. I mean, does it form part of the other part of your brief which deals with accounting?

A. No, it is not included in that section.

Q. It says:

".....steps should be taken to provide for the inclusion of Canadian National Eastern Lines operating accounts as part of the System accounts, so that the Canadian National Income Deficit shall be all-inclusive."

You are getting back there to the matter of accounting, are you not, capital structure and accounting?

A. Yes, but I have not included it in the accounting system, sir. That was another recommendation I did not include in the overall picture of accounting. That has to do with just the Maritime Freight Rates Act. You see, under section 6 of the Maritime Freight Rates Act it reads as follows:

"For accounting purposes, but without affecting the management and operation of any of the Eastern lines, the revenues and expenses of the Eastern lines, including the reductions herein authorized which shall be borne by the Eastern lines, shall be kept separately from all other accounts respecting the construction, operation or management of the Canadian National Railways.

"2. In the event of any deficit occurring in any Railway fiscal year in respect of the Eastern lines the amount of such deficit shall be included in a separate item in the estimates submitted to Parliament for or on behalf of the Canadian National Railways at the first session of Parliament following the close of such fiscal year."

Q. In what respect would you alter that?

A. There is no need, in my opinion, sir, for having that segregation made whatsoever. In respect of 6, if there is any reimbursement in connection with the Maritime Freight Rates Act, it should be handled in somewhat the same manner as with other companies, under section 9 of the Act, and I think that is the purport of what the Duff Commission had in mind as well.

Q. Then what you say is, I take it, Mr. Matheson, section 6 as it now stands says these accounts are to be kept separately?

A. That is right.

Q. And what you want them to do is not to be kept separately but to provide for the inclusion of the Eastern Lines operating accounts as part of the System accounts, to be kept as part of the whole system --

A. That is correct.

MR. SPENCE: What would be the purpose of that?

MR. COVERT: That is what I want to come to..

Q. What advantage is there in that, or is there any?

A. What is the advantage in keeping it now, having this breakdown, this arbitrary breakdown, set up?

Q. I don't know, Mr. Matheson. You say there is no advantage in keeping them separate?

A. And number two is that, for example, here is this deficit, it probably shows a deficit. Now, with the Newfoundland Railway included as part of the Eastern Lines, and then Temiscouata coming in as part of the Eastern Lines, that deficit is going to be a greater deficit still, and it stands out in the books on an arbitrary accounting basis, which I do not think it should.

Q. Perhaps a matter of pride -- you don't like to see such a big deficit shown for the Eastern Lines down here; is that it?

A. Well, particularly where a lot of these railroads are part and parcel of the national policy -- the Newfoundland railway.

MR. O'DONNELL: Q. With the separation that you are suggesting at Moncton for the operation of the freight rate end of the business?

A. I just don't follow your question there, Mr. O'Donnell .

Q You want that separated but you don't want this.

A. That is different altogether. On February 1, 1947 -- I do not want to take up too much time on this, but I had some correspondence in connection with these Eastern Line accounts, because I wanted to get it for my information. Mr. T. H. Cooper, Vice-President and

Comptroller of the Canadian National Railways, under date of January 29, 1947, wrote to the late Mr. F. M. MacLennan, Assistant Deputy Minister and Comptroller, Department of Transport, sending the material through the Deputy Minister that I requested. In other words, the Eastern Line accounts were not published for those particular years, and I got the years 1945 and 1944; I don't remember whether I got 1946 or not. He says:

"We maintained separate accounts for the Eastern Lines up to and including the year 1939 but after the war broke out and we were faced with considerably enlarged accounting requirements and reduced experienced staff, we resorted to other methods of compiling Eastern Lines accounts along the lines of the formula based on the experience gained during the 10 years 1930 to 1939, inclusive. We have never considered the figures so produced as being indicative of the true accounts had separate accounting been maintained. We had in mind also that although there is a statutory requirement to maintain a separate account for Eastern Lines we could think of no essential purpose which was served. Considering the impracticability of maintaining separate accounts and their apparent uselessness we felt we were justified in doing what we did. The statements enclosed herewith must therefore be used with this background in mind."

MR. COVERT: Q. In other words, is it fair to say that the railways have said in effect that they agreed with your proposal here?

A. That is what it amounts to.

MR. O'DONNELL: The letter means what it says.

THE WITNESS: That is what it amounts to, yes.

MR. O'DONNELL: Interpret it any way you wish, but it is still there.

MR. COVERT: Q. Then at the bottom of page 133, Mr. Matheson says:

"(c) A provision should be added to the Maritime Freight Rates act treating through traffic between Digby, N.S., and Saint John, N.B., as all-rail traffic."

Is that simply because in effect that is the treatment accorded to Newfoundland under the arrangement with them?

A. No. Personally I have always felt that between Digby and Saint John that should be looked at in the same category as a car ferry, under the Maritime Freight Rates Act. Probably there would have been a car ferry there years ago except for certain tidal conditions, but the Act itself just stipulated car ferry, and there were no rails on the car ferry, no rails on the Princess Helene, so therefore the Board, I believe, adhering strictly to the letter of the law, could not deem the Princess Helene between Saint John and Digby a car ferry.

Q. That would give the benefit of the 20% reduction on rates on that haul?

A. On the through traffic on that haul, exactly in the same way as on continuous through traffic between Port aux Basques and North Sydney.

Q. On page 134, your paragraph (d), the effect of that is -- you say it should be clearly indicated in the Railway Act that when a rate is found to be unjustly discriminatory, the B.T.C. should be authorized to determine and prescribe the exact rate to be charged; it should not be

left to the carrier to remove the condition by increasing the lower rate to the higher or reducing the higher to the lower or adjusting both to the common level. As I understand the situation to-day, when the rate has been declared discriminatory the railway can raise that rate or lower the other rate to overcome the discrimination?

A. That is right.

Q. And you suggest that this should not be left to the railway at all, but that the B.T.C. should determine how it is to be done?

A. That is right.

Q. Now, is there any precedent for that? Is that the practice --

A. That is the practice under the I.C.C. in the United States, Mr. Covert, but that was changed. The practice previously used to be, as I understand it, more or less optional, like they have in Canada. The practice now is that the I.C.C. takes the initiative in determining what should be done.

Q. Then on page 134, (e) you recommend a reparation section. They have one in the U.S.A., I understand?

A. That is correct.

Q. Do you know whether this has proven satisfactory in its operation in the United States?

A. What do you mean by satisfactory, Mr. Covert? Do you mean satisfactory to the railways or satisfactory to the shippers?

Q.. I contemplate it from both points of view.

THE CHAIRMAN: Is this under (e) you are talking?

MR. COVERT: Yes, Mr. Chairman, page 134, (e).
It is the second paragraph on page 134. It says:

"A reparation section should be provided in the Railway Act",
and so on.

THE CHAIRMAN: You will have to be a little careful there about the question of jurisdiction of the courts, you see.

MR. COVERT: From a constitutional point of view?

THE CHAIRMAN: Yes.

MR. COVERT: Q. Do you think that it is highly important in Canada that there should be a reparation section?

A. That is my feeling, Mr. Covert.

THE CHAIRMAN: Q. Has experience shown that?

A. Well, there are quite a number of cases where the matter has been taken before the Board and the Board has found that it could not award reparations, although the situation might be found where the rates were unreasonable or unjustly discriminatory, and the Board has found that it has not got the power in Canada so to do. Now, it is my feeling, for example, if a rate was in for a period of time and the shipper was penalized as a result of it, and it turned out to be an unreasonable rate or unjustly discriminatory, that there should be some recompense to the shipper in respect of such a --

Q. I see what you quote here:

"It can only declare what the lawful rate was or should have been, and the parties are left to whatever redress they may be entitled to consequent upon that declaration."

They leave it just at that:

A. Yes.

Q. Do you think they should be given power to order a refund?

A. I believe, Mr. Chairman, that they should have power in connection with the rates that are unjustly discriminatory.

MR. COVERT: Q. Before you go any further, isn't it a fact, Mr. Matheson, that in the United States that has led to a great deal of litigation, and that as a matter of fact people buy up these claims, and there are people who just make a business of that, rather than the reparations actually going back to the people who paid the rates?

A. I am informed that there is quite a lot of litigation in connection with it, Mr. Covert.

Q. You have had a long experience in freight rates in the Maritime Provinces now; do you think there would have been many claims for reparations down here?

MR. O'DONNELL: Work the other way.

THE WITNESS: Just right offhand, Mr. Covert, I do not know --

MR. COVERT: :Q. That is what I was wondering -- how serious a matter was involved, and whether the reparations actually in the usual case went back to the person who paid the . high rate, by the time the goods had gone through and the high rate had been paid and the price perhaps passed on to the consumer, and so on?

A. Yes, there are a lot of features about it.

MR. FRAWLEY: Q. Would you have to get the Board's leave to sue, do I understand?

A. No; the Board itself, in the case of a finding of unjust discrimination -- this is what they do in the

United States; they say that the rates are found to be unreasonable and that reparation should be paid for the difference for a limited period of time during which those rates were in effect.

MR. COVERT: On page 134, clause (f):

"Section 312 of the Railway Act should be amended to confer upon the Board jurisdiction over facilities incidental to express services."

Now, just what are you referring to there? Is that contained in that citation down below?

A. It is all contained in the citation. Under section 312 of the Railway Act, in connection with facilities --

Q. Is that pick-up and delivery service?

A. That would be involved, that would be involved.

Q. You say they should be empowered to make rates, including the pick-up and delivery?

A. No; to go into the question of services under section 312, of the provision of services.

Q. Would that include trucking, for instance, used in connection with express services or in conjunction with them? I just wanted to find out what you had in mind by "facilities incidental"?

A. Like furnishing adequate and suitable accommodation for the carrying, loading and delivering of all such traffic in connection with express service, without delay and with due care and diligence, receive, carry and deliver all such traffic, furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic, furnish such other service incidental to transportation as

is customary or usual in connection with the business of a -- and this is where the point comes in -- of a railway company. That has been defined, and I believe in that decision, if I remember correctly, that only limits it to a railway, and does not include an express company, and there were some instances that were brought up in regard to this that if that had been inclusive of an express company, then the Board would have power to adjudicate upon it.

Q. Then can we sum it up this way: You say that there is at least doubt in Section 312 as to the interpretation of the section including facilities incidental to express services as distinguished from freight services?

A. There is no doubt about it, according to the Board. The Board says that we just --

Q. And you say that it should?

A. It should.

Q. And you have in mind particularly by the facilities --

A. Oh, yes, with the application of section 312.

THE CHAIRMAN: Q. What about express rates?

A. Express rates are already controlled, sir, under the Act.

MR. COVERT: Q. The facilities incidental that you have in mind are such things as pick-up and delivery; have you anything else in mind?

A. Oh, an extension of your pick-up and delivery territory, that would be included in that, what matters to be considered, perhaps service in a community, whether there should be facility provided in a certain community that has not got the pick-up and delivery services.

It primarily surrounds that question of facilities.

Q. Now, item (g) on page 135 deals with suspension of rates. It seemed to me in examination of sections 331 and 332 that pretty broad powers of suspension were given, as a matter of fact perhaps broader than you are suggesting here -- three months. Is there any limit to which rates can be suspended now, any limit of time?

(Page 4497 follows)

A There is no limit of time in Canada as far as I know. I do not recollect any limitation.

Q Are there any rates that they cannot suspend? I am not suggesting that I am correct when I give you my impression of 331 and 332. I should like to find out what you have in mind. Let us have a look at section 331, for instance, which in subsection 4 says:

"When the foregoing provisions have been complied with, any such special freight tariff, unless suspended or postponed by the Board, shall take effect on the date stated", and so on.

MR. SINCLAIR: Section 325 (2).

THE WITNESS: 325 (2).

MR. COVERT: "The Board may designate the date at which any tariff shall come into force, and either on application or of its own motion may, pending investigation or for any reason, postpone the effective date of, or either before or after it comes into effect, suspend any tariff or any portion thereof."

Section 331 deals with special freight tariffs, and section 332 with competitive tariffs, and then there is section 325 (2).

THE WITNESS: What is your question?

MR. COVERT: Q. My point is you have asked that provisions should be made in the Act conferring upon the Board the power to suspend changes in rates, either upon complaint or its own motion, for at least three months, or such longer period as may be deemed necessary, and you go on to say:

"...and it would also be stipulated that in suspension cases the burden of proof should rest upon the carriers."

What I am suggesting is that full suspension powers already exist in the Act.

A When I read the brief I think I pointed out the first part of that might have created a misunderstanding in regard to suspension powers. There are full suspension powers at the present time.

Q What you are really suggesting is that in suspension cases the burden of proof should rest upon the carrier?

A Rest upon the carriers, and I will even go so far - I want to be reasonable there, and I think perhaps there should be some time stipulation included. I think the railways should be given due consideration there in the matter. Incidentally, this is identical to the I.C.C. setup. I am not quoting it just because of that because in various cases I have had in regard to suspensions there has always been an element of doubt as to the burden of proof.

Q Then item H:

"Cartage service incidental to rail shipments should be deemed a rail service under the Railway Act."

Is this any different from the recommendation that you made in 15 (h) except that this applies to freight instead of express? Are you thinking of pickup and delivery here?

A I am thinking of pickup and delivery here. There have been numerous cases from time to time regarding

cartage charges by the railways, and the service, one thing and another. As you know, the railways have established regionally what they call a pickup and delivery service, pickup freight at the shipper's door, and deliver it to the consignee at so-called pickup and delivery points. That service, the pickup and delivery service is not under the Railway Act at the present time according to decisions laid down by the Board on several occasions.

Q What you would suggest is an amendment to the definition so that the word "tolls" would include cartage?

A That would cover it.

Q Something like that?

A Something along that line.

Q Now, in item(I) you are dealing with the Crow's Nest Pass rates, etc. You say those should be maintained, and studies should be made to see what the normal rate would be, and the railways should be reimbursed for any deficiencies.

MR. O'DONNELL: Q. Would that be a matter for a separate accounting?

A You are putting the question to me?

Q Yes. Would you keep any deficiencies in a separate account? Would you segregate it so you would know what it was?

A Provided that the rates that existed, and have existed, are found to be not reasonably compensatory, then that would necessitate keeping your traffic figures and determining what the amount is and getting reimbursed for it the same way as you would under the Maritime Freight Rates Act.

THE CHAIRMAN: Q. That might bring down the rates in other parts of Canada. Is that it?

A That possibly could have the effect of bringing down rates in western Canada.

MR. COVERT: Q. All over Canada.

A Or all over Canada.

Q I believe Mr. O'Donnell's question was whether or not that should be kept in a separate account. Do you say that it should not be, that it should be kept as a part of the whole system accounts?

A I think what Mr. O'Donnell has in mind is that --

Q I think I know what he has in mind.

A They have knowledge from the waybills, of the volume of grain products moving under the Crow's Nest rates, and it is just a matter of calculating and submitting it to the powers that be for reimbursement in some such manner as under the Maritime Freight Rates Act.

THE CHAIRMAN: Q. Reimbursement on what basis?

A On whatever rate would be found, if it was not a reasonably compensatory rate. That would have to be determined first.

Q By whom?

A Well, that would be a problem of investigation to determine that, sir.

MR. COVERT: Q. I do not think you have quite answered that. The Chairman says "by whom?" Do you suggest ^{the} Board of Transport Commissioners should make the investigation?

A Yes, I really think that should be done by the Board of Transport Commissioners, and it would be set up similar to the Maritime Freight Rates Act.

THE CHAIRMAN: Q. Similar to what?

A Under the Maritime Freight Rates Act, where reimbursement is made under the Maritime Freight Rates Act.

Mr. O'DONNELL: The same method of handling it.

THE CHAIRMAN: But under the Maritime Freight Rates Act the purpose is given, the reason for the reduction and consequent reimbursement, to facilitate traffic between the Maritimes and Central Canada. What would you say in this case?

A My thought here --

Q These rates have been in effect a long time, and I have never heard the question of compensation raised before. It may have been but I have never heard it.

A It has been raised recently in the brief of the Canadian Manufacturers Association and the Canadian Industrial Traffic League. It was also raised in a study made by Mr. Thompson in his famous book, The Railway Problem in Canada.

Q Have the railways ever asked for this?

A I don't know that the railways have asked for it, but my approach to this matter is that there should be a determination of whether these railway rates are compensatory or not before any reimbursement is made. It has to be a matter of determination.

MR. SINCLAIR: The railways have stated that the rates are low.

THE CHAIRMAN: What is that?

MR. SINCLAIR: The railways have stated in a number of cases that the rates are low on grain.

MR. FRAWLEY: In what cases?

THE CHAIRMAN: Lower than cost, or lower than what?

MR. SINCLAIR: That is something my friends, Mr. Frawley and Mr. Shepard, will speak to.

MR. FRAWLEY: That is after you have told us, when we speak.

MR. O'DONNELL: We will see how it develops.

MR. COVERT: This matter was raised in some of the western briefs too.

THE CHAIRMAN: I suppose the proposal is that if the rates are too low, and parliament grants compensation to the railways to make up for the deficiency in the rates, that would enable the railways to carry on generally with lesser freight rates. It must be that.

MR. COVERT: Q. There is one point that puzzled me a little, and that was the use of the word "normal" here, "normal rate". You have discussed it on the basis of being a compensatory rate.

A What I really have in mind is reasonably compensatory. There is a difference between compensatory and --

Q In other words, cost plus some profit?

A For example, you can say that no rate that is below the average cost of operation is a reasonable rate, you see. That is what you call on the over-all, whether it is a compensatory rate, whether it meets out-of-pocket costs, taxes and a return on the investment. That is looking at the over-all picture. However, the term "reasonably compensatory" may be used, and it might be this particular rate, looking at all the factors, might be

reasonably compensatory. The present rate might be reasonably compensatory.

THE CHAIRMAN: Q. I suppose you would bring it down to this, that wherever a rate is imposed on the railways by Act of Parliament, that there should follow an examination to see whether they are losing by applying that rate, and if so they should be compensated?

A That is exactly what was done with the coal subventions when they were originally put in

Q You would make it general in application. It is not only the Crow's Nest rates?

A I make it general.

Q All statutory rates?

A All statutory rates.

MR. COVERT: I will now take you to volume 2.

MR. O'DONNELL: Q. If these rates are too low, would you recommend that they be increased? Would you go along with what I understand was the recommendation of British Columbia that they should be increased if they were too low?

THE CHAIRMAN: That is not what Mr. Matheson says.

MR. O'DONNELL: I am just asking him if he found they were too low --

MR. FRAWLEY: That is not what anybody in British Columbia said.

MR. O'DONNELL: I think that is what they said. You were not there that day.

MR. COVERT: Q. Let us take volume 2, Mr. Matheson, Exhibit 47. I am not going to take you all

through it.

A I hope not.

Q On page 2 of Appendix 1 you say:

"....Schedules between the Maritimes and Central Canadian points must be constantly improved to match comparable improvements in schedules in other regions as well as to and from other ports."

I wanted to ask you if you feel that should be so whether or not the traffic warrants it?

THE CHAIRMAN: Where is that?

MR. COVERT: It is in Appendix 1, page 2, immediately following the index. There is the heading "Transportation system in the Maritimes today."

THE CHAIRMAN: There are several pagings here.

MR. COVERT: Yes.

THE CHAIRMAN: I think I have it. What is the point there?

MR. COVERT: Below table B he has suggested an improvement in the schedules to match comparable conditions and schedules in other regions. I am asking him if he suggests this whether or not the traffic warrants it, and perhaps at the same time how much stress he puts on the words "comparable improvements in schedules in other regions."

THE WITNESS: In answer to that, there have been in recent months, and from time to time, improvements in our schedules on what we call manifest freights. That is trains going from here to Montreal and Toronto, and that is both on the Canadian National and the Canadian Pacific - I think there have been some improvements there too. I am not surprised about that. The point I have in

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mind here is that, in order to get our produce up on the long haul, we have got to shorten our number of days as much as possible, particularly where there is a question of inventories, and so on. Where a person might get on a ~~shot~~ haul by truck or by rail very good service in the central provinces, it is of importance that our goods get up there in the quickest time possible. When you say "comparable improvements", if there is a reduction in time on freight schedules in the central provinces, and between the United States ports and Central Canada, it is of vital importance to our ports to get traffic, and attract traffic, that they should be watched carefully and corresponding improvements effectuated.

MR. COVERT: Q. Do you think the amount of traffic on these lines has some bearing on the improvements that are made or should be made?

A Well, I would consider that the main lines of the Canadian National Railways and the Canadian Pacific - and I think it was a Duff Commission finding - are very very heavy traffic lines. Perhaps I should not say very heavy traffic, but they are heavy traffic lines or medium traffic lines.

Q.
THE CHAIRMAN: / They are what?

A Heavy traffic or medium traffic lines. I just do not remember which. That would in itself dictate that they should be given consideration.

MR. COVERT: Q. On page 4 at the bottom of the last paragraph you say that the existing facilities at North Sydney will have to be improved. Do you know whether or not the C.N.R. has already had this under consideration?

It occurs to me that it is a comparatively short time since Confederation with Newfoundland, and this may be underway. Have you discussed it with them?

A No, I have not discussed it with them recently.

Q Perhaps by bringing it to the attention of the C.N.R. there may be some information brought forth on it. At page 11 in the first paragraph you say that it is essential in the national interest that the ports of Saint John and Halifax be developed so that there will always be experienced personnel to cope with emergencies. That is in the latter part of the first paragraph. I suppose you mean these ports are very good in times of war, and that by having traffic go through them you always have at least a skeleton staff to do the necessary things so that when the tremendous traffic comes on in time of war you have someone trained. Is that all you have in mind there?

A That is the principal thing I have in mind.

Page 4510 follows

Q. On the same page, in the second last paragraph, at the end, it says:

"The existing arrangements and centralized control are not conducive to effective port promotion.

"This Commission considers it in the best interest of the ports of Halifax and Saint John that the federal government appoint local port advisory committees . . ."

Have you anything to add, over and above what was said in the Gibbs Report? What advantages do you think would accrue from decentralization?

A. I do not mean decentralization of the port authorities, the National Harbours Board. I am suggesting that there should be committees which would function with the port managers at the various national ports, to the end of getting their ports to the forefront, and considering ways and means of so doing.

Q. You mean a port advisory committee representing steamship and labour interests and municipal authorities. Your idea is for them to advise the port authorities?

THE CHAIRMAN: To formulate plans?

MR. COVERT: Q. Yes; and have you thought of what their authority is?

A. Oh, they are to be more or less a co-operating body.

A. And they would not take any managerial functions away from the company staff?

A. I have never been of the view, myself, that the traffic department of the National Harbours Board should be located at Ottawa and that they should have a traffic

manager or port manager under the proper set-up who would function within the various ports.

THE CHAIRMAN: Q. That was the old system?

A. The old system included a harbour commission with jurisdiction over engineering, administration, accounting and everything else, including traffic as well. But it is my view that the traffic department should be a matter for each local port, under the National Board set-up.

MR. COVERT: Q. On page 12 you set out some recommendations of the Duncan Commission and you say that these are recommendations which have never been fully implemented. You recommend improvements in the Prince Edward Island ports as suggested by the Duncan Commission. Have you anything further to advance?

A. I understand that you are going to get some additional information on this when you are in Prince Edward Island.

Q. And you have nothing further to say?

A. I have nothing further to say in that regard.

Q. On page 22 there is a recommendation in paragraph one, immediately below the figures there in Table N, and you say:

"There is a definite need for improved terminal facilities for accommodating air passengers, express and freight, more particularly at Moncton, Dartmouth, Sydney and Yarmouth."

Are there deficiencies in those places at the present time?

A. There is quite a lot of congestion which

occurs at times in some of these places, and particularly so at Moncton. Mr. Fitch, my assistant, has made inquiries about this, and perhaps he might speak to it.

MR. FITCH: It seems that the biggest jam occurs when, upon occasion, the Gander or Goose Bay Airports are closed down on account of fog. Then you will have anywhere from five to six trans-Atlantic aircraft, the capacity of which is in the vicinity of fifty to sixty passengers. The trouble is that most passenger accommodation at terminal airports will only accommodate in the vicinity of a DC load, which is twenty-five; so that, when you have up to 150 passengers, for periods of from twelve to twenty-four hours, it is difficult for the air lines, for the passengers, and for all concerned.

MR. O'DONNELL: That would be on foggy days.

MR. COVERT: Does that happen very often, Mr. Fitch?

MR. FITCH: No, it is rather the exception than the rule. But the trouble is, it is frequent, with aircraft dependent so much on the weather.

MR. COVERT: Yes. Is there any further information you have to add to that, Mr. Matheson? It just struck me that the statement was a definite one to the effect that present accommodation was inadequate to match the increased volume of traffic. Has this matter been taken up, for example, at Moncton, Sydney, and Dartmouth, with the T.C.A.?

THE WITNESS: No; with the Department of Transport. I believe there are plans drafted for a new terminal, I know, at Moncton, and also at Penfield.

MR. COVERT: Q. Do you think that the need is urgent and that these people are not aware of it, or that it is a matter which should be brought before the Commission to make a recommendation? Do you think we should make any further study of it?

A. One point about that is, as I see it: we are drawing it to the attention of the Commission, and if, in the interim, nothing is done, I think, perhaps, the Commission has it within its scope to give it consideration.

Q. Now, at page 23, the Chignecto Canal; have you anything to add to what has already been said?

A. I have no further instructions on this, Mr. Covert.

Q. Do you care to express any opinion as to the feasibility of the canal, or do you feel qualified at all to do so?

A. Our Commission, at the present time, has begun surveys on their own initiative, to determine the traffic potentialities and so on; and it has reached a stage where I have not got this study completed because of the intervention of these freight rate cases and of this Royal Commission, so I have not had an opportunity to follow the matter through.

Q. Now, in Appendix 1-B ---

THE CHAIRMAN: You examined on parts of this at Halifax?

MR. COVERT: Yes, I think I examined him on parts of this, as to whether or not the transcontinental

lines in Canada were similar to the regional lines in the United States, and also on the point, which to me seemed to be the main point in this evidence of Mr. Kelly, who seemed to deal with the desirability of competition in the United States. That is one of the factors, that it is a market factor and seems to be one of the main factors in determining rates.

THE CHAIRMAN: Between producers?

MR. COVERT: Q. Between producers?

A. That is right. That is my interpretation of it.

THE CHAIRMAN: Yes. He says to establish rates on a basis which would enable producers located at points distant from principal markets to compete with producers located nearer to the principal markets. We understand that.

MR. COVERT: Q. I was wondering if the real point of having this in the brief was to indicate

encouraging traffic by having lower rates on the long hauls -- in other words, as indicated in some parts of this brief; and the amount -- what amounts to tremendous tapering -- you thought that would encourage traffic; and whether you thought that would assist both ends of Canada, which suffer from these long hauls, and at the same time assist the railways?

A. I had that in mind as one of the things in connection with the appendix.

THE CHAIRMAN: Would it lead to the pooling of costs? Would it mean rates so adjusted that it meant nearly the same costs to the faraway producer to the

given market as it would to the nearer producer?

That is the idea, is it?

THE WITNESS: It would hold down the cost. For example, take exactly what it says in this report, as in the case of grapefruit and oranges, that they hold down the increase. They granted a percentage increase to hold these down to a flat maximum amount.

THE CHAIRMAN: Q. It ^{is} created horizontally by a maximum in order to favour the long-haul producers?

A. That is right; and if you worked that out on a percentage basis --

Q. I thought that was what you meant, or rather what Mr. Kelly meant.

MR. COVERT: Q. Now, perhaps because of the greater truck competition in the United States, and the short distances, they might have been driven into it even more so -- into long haul, even more so than we in Canada. Would that be possible?

A. It would be very interesting. I had a comment on that. It would be very interesting to see, in relation to our total traffic in Canada, vis-a-vis the United States, what the traffic is via trucks, and to see what relationship would obtain. I could not very well answer that without having gone into that study. I am afraid I might not appraise the situation properly.

Q. There were two or three general questions I had to ask you. I have finished with both volumes; but there are two or three general questions I want to ask you. One is that you have, perhaps, heard the

question put before that, with these export markets disappearing, and with the regions east and west looking to the central market -- now, is that going to mean that you reach a stage where the central market just cannot absorb the production of all the regions, and that they are going to have to curtail production rather than find that central market?

A. As I see the situation, I hope it will never get to that state of affairs. The Maritimes are primary producers, and yet have to be dependent on exports altogether. You are in a very dangerous situation. You have got to have a cushion in there somewhere because you are subject to the vicissitudes of international trade conditions and monetary changes. And we must have a cushion in there in Canada, not necessarily only the central provinces, but the whole of Canada. And unless we can sell our goods we are not going to get the wherewithall to purchase from the central provinces the manufactured goods which we import here to a large extent from the central provinces.

Perhaps we would have been in a position to barter -- I might use the expression -- with the other countries if we wanted to get materials; but ^{for} our consumer goods, so to speak, we are dependent upon the central provinces. So naturally there would be some reflection, as I see it, if that terrific situation did occur. We must remember that we have to depend upon the central provinces as well as the rest of Canada.

Q. Do you think there should be any different

treatment? If East and West are driven to the central market, should there be a different treatment as between East and West in seeking that market, freight rate-wise?

A. I tie that right into our whole basic background or structure and, in so far as we are concerned here, it goes right back to Confederation and the Intercolonial Railway and the policy that was carried out, when we feel we should be given every assistance to get into the central Canadian markets.

Q. What do you say as to that part of the New Brunswick brief where they express the opinion that the 20% reduction in the Maritime Freight Rates Act should apply on eastbound traffic? But perhaps that is not a fair question to put to you?

A. I am afraid that is a statement of government policy in connection with the New Brunswick brief, and I would not wish to answer that question.

THE CHAIRMAN: Q. You mean to say that your Board has not taken any stand on that question?

A. No.

Q. Have you asked for the contrary, in the course of your brief?

A. In the course of my brief there is, in connection with the Maritime Freight Rates Act -- we have asked -- and I will put it this way: first of all, there is the Railway Act. We feel that long distance rates and rates on basic and primary commodities, including foodstuffs, should be kept down to a minimum in connection with long haul increases in freight rates.

Q. You mean, west to east?

A. West to east, regardless. That is the whole picture.

Then, we are suggesting in our brief that arbitraries be maintained. That might necessitate, and I think it should, perhaps, involve a change in the Maritime Freight Rates Act.

Now, by maintaining arbitraries you are lessening the impact of freight rate increases on traffic going both out ^{of} and into the Maritime provinces. We go further and recommend that, in the event of the deficiencies, in so far as the railways are concerned, under Section 9 of the Act, and if it can be so indicated that they are suffering from it, they might be able to use the so-called normal basis that might be applied, otherwise than these arbitraries for reimbursement under the Act.

We are looking at the consumer's aspect as well as the aspect of the various provinces and industries within the maritime provinces, as set out in the Duncan Commission Report and in the Maritime Freight Rates Act; and the opportunity to get into the larger markets of the whole of Canada, instead of being restricted to markets of the maritimes itself. So I speak only to the recommendations as contained in our own brief.

MR. COVERT: Q. Now, just as a final question, do you know whether or not truckers do file tariffs of rates in New Brunswick?

A. Under the Motor Carriers Board, truckers in New Brunswick file the rates. The Act has been changed in recent years, and I have not had occasion to go into it very carefully.

THE CHAIRMAN: Didn't Mr. Barry state that he would give us that information?

(Page 4525 follows)

MR. COVERT: My understanding was that he said they did not, but I had understood that they did. I was trying to see if we could find out.

THE CHAIRMAN: I mean, it must be a Government regulation.

MR. SINCLAIR: The statute is cited here.

THE WITNESS: And there are regulations issued --we have them in our file in Moncton -- issued pursuant to the Motor Carrier Act.

MR. COVERT: Mr. Barry tells me, Mr. Chairman, that he will get the information and file it with the Commission.

That is all the questions I have.

THE CHAIRMAN: Can anybody give us an idea how long it would take to finish the examination of Mr. Matheson?

MR. SHEPARD: Mr. Chairman, I have questions which I do not think will take more than five to ten minutes.

THE CHAIRMAN: Well, we will give you ten minutes, then, Mr. Shepard.

MR. FRAWLEY: I don't know how long mine will take, but they should not take more than 15 or 20 minutes, I think, sir.

THE CHAIRMAN: Perhaps half an hour between the two of you.

MR. SMITH: I have no questions to ask, Mr. Chairman.

MR. McPHERSON, Jr.: I am not asking any questions, Mr. Chairman.

THE CHAIRMAN: What about the railways?

MR. O'DONNELL: We will take something more than ten minutes, I think; I don't know exactly how long, Mr. Chairman.

THE CHAIRMAN: We are prepared to sit to-morrow until 1:00 o'clock if there is anything to be accomplished by that.

MR. SINCLAIR: That being the case, we would be sure of finishing at Charlottetown. We could not finish to-morrow, I am sure, but we would be sure of finishing at Charlottetown, I would think. It all depends how long their briefs are going to be, but we certainly could not finish to-morrow morning. We will ^{take}/more than to-morrow morning ourselves.

MR. FRIEL: You said you were going to take all day?

MR. SINCLAIR: Yes, we will take up to a day, maybe more.

THE CHAIRMAN: How long will you be, Mr. O'Donnell?

MR. O'DONNELL: We have a shorter line than that, Mr. Chairman. I don't know, but I don't think we will be as long as that.

MR. SINCLAIR: We will check your mileage.

THE CHAIRMAN: Well, Mr. Shepard, you might perhaps consume your ten minutes right now.

MR. SHEPARD: Mr. Chairman, these questions are directed mainly to obtaining clarification on page 135 of Volume 1 of Mr. Matheson's brief, where the recommendation lettered (i) is set out, a recommendation dealing with Crows Nest Pass grain rates.

CROSS-EXAMINED BY MR. SHEPARD

Q. Mr. Matheson, I wanted first to direct your attention to the third sentence in that paragraph:

"As to proposals to recompense the railways for the difference between the Crow's Nest rate and the rate which otherwise would obtain based on the grain rates that existed in 1922...."

Now, I think I understood you to say in Halifax that the C.M.A. -- and you have mentioned it this afternoon -- the C.M.A. and the Industrial Traffic League have made certain suggestions as to Crows Nest Pass grain rates?

A. Yes; I am definite in connection with the C.M.A.; I am not sure of the C.I.T.

Q. Well, I have read both those briefs, and I do not recall any reference to the grain rates that existed in 1922; would you have any comment to make on that?

A. No. It has been my impression that any reimbursement would be predicated on 1922 rates as a base, that was all; that was the only impression I had. I did not see anything in black and white about it.

Q. Perhaps I am under a misapprehension. Are the 1922 rates something different from what they are to-day?

A. Oh, yes. You see, the 1922 rates --

Q. That was when they were raised?

A. No; that is after the Crows Nest rates went back into effect, I think it was on July 6, 1922, under Order in Council.

THE CHAIRMAN: They had been suspended.

THE WITNESS: They had been suspended.

MR. SHEPARD: Q. That is my understanding; so what you are now referring to are --

A. The old rates.

Q. The old rates?

A. The old rates that existed.

THE CHAIRMAN: The rates during the suspension.

THE WITNESS: During the period that the Crows Nest were suspended.

MR. O'DONNELL: The higher rates that were in force at that time.

THE WITNESS: The higher rates that were in force at that time.

MR. SHEPARD: Q. And you, I take it, are under the impression that those 1922 rates -- that is, higher than to-day's rates -- are the ones referred to in these two briefs?

A. That is my impression.

THE CHAIRMAN: Q. That is, that those rates would be used as a basis to determine whether there is a fair compensation or not?

A. That is right. As I understand it, sir, -- let us assume, for example, that the 1922 rates were found to be reasonably compensatory rates -- I am just using this as an assumption -- as I understand it, then the difference would be based between those rates and the existing Crows Nest rates.

MR. SHEPARD: Q. Now, is this a fair summary of the gist of this paragraph, Mr. Matheson, that you are recommending in effect three things: first of all, an investigation of the compensatory nature of the present grain rates; secondly, you are suggesting a subsidy -- you do not refer to it as such, but you say that the railways should be reimbursed, and I take that to mean subsidy --

and, thirdly, you suggest, in fact you state categorically in the first sentence, that the present rates should be maintained. Would that be a fair summary of your recommendation?

A. That is right. It might be found, on number one, in connection with the compensatory nature -- I don't know -- it might be found that the Crows Nest rates are reasonably compensatory, taking all factors into consideration. Then there would not be any subsidy or readjustment.

Q. That is, the rates on the present basis?

A. Yes.

Q. Not the 1922?

A. No, no; the Crows Nest basis.

Q. And you, of course -- at least, I assume you have made no investigation yourself?

A. Oh, no, no, that is too big a question. You would have to have available all the traffic figures, the density of the traffic and the number of cars hauled on a train, all these factors. The train loads and all these factors would have to be taken into consideration.

Q. Now, down near the end of the page, Mr. Matheson, the last sentence, which starts five lines from the bottom:

"If, pursuant to a careful study it should appear that the Crow's Nest rates on grain and grain products are relatively non-compensatory"

Mr. Covert asked you some questions about that phrase "relatively non-compensatory", but I wonder if you would mind just elaborating a little further on what you understand that phrase to mean?

A. You might, for example, have a case of a rate that covers out-of-pocket costs plus a certain amount to

constant expenses, looked upon as a reasonably compensatory rate under certain conditions and circumstances. Now, I say relatively; a term that is used quite often is "reasonably compensatory", and you have got to take into consideration all factors. Now, I specify there, I think, clearly the incidence of the Crows Nest rates in relation to the western rate structure. All these things would have to be taken into consideration, and it might be that, taking all these factors into consideration, the quantum of the traffic, the volume that moves, and taking also the empty car movement into the picture, the reasonably compensatory rates are the present Crows Nest rates; I don't know. If that is the finding, then there is no question of reimbursement.

Q. Well, would you say that this is a fair statement, that you start, when you would start in determining the compensatory nature of a particular rate, by comparing it with the average of rates, and then if it was not below that average you would say, "Well, we don't need to look further," but if it was below that average you would say that that on the face of it necessarily constituted a non-compensatory rate, but all the other factors that you have mentioned, such as volume and the facility of handling the commodity in question and others, would have to be considered?

A. I would not go so far as saying that you look at the average revenue per ton-mile and adopt that altogether.

Q. Would you ignore that entirely in starting?

A. No. That would be a factor that would be taken into consideration. You take into consideration the per-car-mile revenue. You might find in a case, for example,

like your Pocahontas Railroads in the United States, carrying coal at relatively low rates in the United States, they are the wealthiest railroads in the United States. It is a low traffic, per-car-mile revenue is pretty good -- the heavy train loads and so on -- all these factors have got to be taken into consideration, Mr. Shepard.

Q. Now, one final question, Mr. Matheson. Referring to the word "reimbursed" in the last line of page 135, I take it there is not any doubt that what you mean there is a subsidy?

A. Oh yes. We consider in the Maritimes here that perhaps since this Maritime Freight Rates Act, reimbursement under the Maritime Freight Rates Act, there are some rates here that would have been considered reasonable without having any readjustment or reimbursement in the Maritime Freight Rates Act at all.

THE CHAIRMAN: Q. No, but the point is, who is to make the reimbursement?

A. That would be the Dominion Government. This is a question of statutory rates, Mr. Chairman, as I see it, and that is what I have in mind, if they found that the statutory rates were below what would be considered reasonably compensatory.

MR. SHEPARD: Thank you.

THE CHAIRMAN: You can go on for a part of your time, Mr. Frawley.

CROSS-EXAMINED BY MR. FRAWLEY:

Q. Mr. Matheson, you do not attach any particular importance to the levelling of rates that carried the grain in 1922, in view of what you have said this afternoon about the necessity for a study to determine the

compensatory nature?

A. You mean fix it to the 1922 rate as a base of study?

Q. Yes.

A. It might be a matter of approaching the whole thing from it, but it is not the thing to adopt it -- by no means.

Q. If the Commission or someone else is to make the kind of exhaustive study you have in mind, what the level was in 1922 does not matter?

A. I think perhaps this will answer your question there: At the time the 1922 reductions came in, which were an average of $7\frac{1}{2}\%$ there was some question then about, instead of re-establishing the Crows Nest rates back again, working out some scheme in connection with these various commodities. Now, possibly if Crows Nest rates had not been in effect there might have been some adjustments in the rates on grain and grain products, so for me to say categorically that that is to be used as a base, that is not the intent at all.

Q. You know that originally the Crows Nest Pass Act required the railways to carry many, many commodities westbound at very much lower than standard rates?

A. That is true.

Q. And you know that when they became statutory in the sense of going into the Railway Act in 1925, we abandoned all that on westbound traffic?

A. That is right.

MR. SINCLAIR: Picked up all other shipping points.

MR. FRAWLEY: Q. Well, I may have something more to direct to your attention there, because I want to call your

attention to some observations in the Supreme Court of Canada with regard to the reason why there was a suspension. I put it to you, Mr. Matheson, that there was merely a war time suspension of those Crows Nest Pass rates?

A. That is all.

Q. That they had previously been what they are now, and then for a short period about 1917, purely as a war expedient, they were taken out?

A. As a matter of fact, I think if you went into the matter very carefully you would find some of the rates were below the Crows Nest Rates.

Q. Now, Mr. Matheson, there are two or three things in your very complete brief that I would like you to clarify for me, and I think you will be able to quite readily. It is in connection with this study about which we have heard so much of the Maritime Freight Rates Act. At page 64 you make an observation that I found very interesting. You say at page 64, at the end of the second last paragraph:

It is to be noted that rates reduced to meet competition are subject to reimbursement under the 'Maritime Freight Rates Act.'

First of all, where in the act do you find that, Mr. Matheson? Then I wish you would tell me something --

A. Under section 3(2)(c).

Q. That same 3(2)(c)?

A. The famous 3(2)(c).

Q. Well, 3(2)(c). I will read it for the purpose of --

A. I will give you the Supreme Court case, and it will save a lot of time on it. This matter was referred to the Supreme court: 41 Canadian Railway Cases, page 56.

THE CHAIRMAN: Q. What year was that?

A 1933.

MR. FRAWLEY: Q. What is the name of the case?

A Maritime Freight Rates Act, interpretation.

THE CHAIRMAN: What year?

MR. O'DONNELL: 1933, June 8, 1933.

MR. FRAWLEY: Q. You say that under that statute the railway is entitled to go to the federal treasury and to be reimbursed when they reduce a rate below the normal rate to meet truck competition, or any competition?

A That is the finding.

Q Yes, any competition?

A Any competition.

Q In other words, if there was a truck operation between Halifax and Yarmouth and the railway wanted to get some of that business they could put the rate down to any place they liked - I am saying that seriously - to any place they wanted to get the business, and then having put the rate down they could go to the federal treasury and obtain reimbursement between the point to which they had put the rate and the point at which it was previously?

A Speaking of the Dominion Atlantic Railway, the D.A.R. would make an application to the Board of Transport Commissioners for a new normal rate for purposes of reimbursement.

Q For a new --

Q For a normal rate for purposes of reimbursement.

Q Let us take it concretely.

A I will give you an illustration. Let us assume that the rate between Halifax and Kentville is 50 cents.

Q Which rate, the normal rate?

A Well, we will take the normal rate.

Q The normal distributing rate?

A There is a 20 per cent reduction under the Maritime Freight Rates Act, and that brings that down to 40 cents. Follow me?

Q Yes.

A Because of motor truck competition the D.A.R. establishes a rate of 30 cents. The Board will determine this new normal for the rate of 30 cents which will be 125 per cent of that 30 cents, which would be $37\frac{1}{2}$ cents, and the reimbursement under the Maritime Freight Rates Act would be $7\frac{1}{2}$ cents.

Q In addition to the 20?

A No, just $7\frac{1}{2}$ cents. The railway themselves, incidentally, would be losing in relation to the Maritime Freight Rates Act. Do you follow me?

Q No.

A I will explain it this way:

Q I do not follow how the railways are losing under the Maritime Freight Rates Act.

A Here is the rate situation. The normal rate on a first class commodity is 50 cents. The application of the Maritime Freight Rates Act, the 20 per cent off, would give you a rate of 40 cents.

Q And if you stop there --

A All right, the railways are reimbursed 10 cents.

Q If nothing else happens the railways are reimbursed 10 cents?

A That is right. Now, trucks come along and take

away their traffic.

Q Threaten?

A Or take it away, and they want to get it back. They put in a rate of 30 cents.

THE CHAIRMAN: Q. Instead of 50?

A Instead of 40. 40 cents is the rate they had.

Q Yes, but their authorized rate is 50 cents?

A No, the normal rate is 50 cents. Then the Maritime Freight Rates Act applied to that gives them 40 cents, and it is a 40 cent rate, although their revenue is 50 cents altogether. They get 40 cents from the shipper.

Q They get 40 cents and reimbursement of 20 per cent which makes 50 cents?

A The total is 50 cents. Now, motor truck competition comes along and they reduce that rate from 40 cents to 30 cents. The Board, for purposes of reimbursement under the Act, establishes a new normal which would be 125 per cent of that rate of 30 cents. In other words, 20 per cent inverted gives you 25 up.

Q Do you mean they would still get 50 cents in the long run?

A No, $37\frac{1}{2}$. The railway's total revenue would be $37\frac{1}{2}$ cents.

Q Including reimbursement?

A That is correct.

MR. FRAWLEY: Q. In other words, the 50 cents normal that you told us about a minute ago becomes $37\frac{1}{2}$?

A Yes.

Q The Board makes an order which reduces the 50 to $37\frac{1}{2}$?

A That is right. There is an order to cover it.

Q And then the actual rate paid by the shipper being 30 cents, they are reimbursed the difference between that and the newly made normal rate of $37\frac{1}{2}$ cents?

A Yes.

THE CHAIRMAN: Q. What is the point about that?

A Mr. Frawley asked me the question.

Q What are you recommending about that?

A I havenot said anything. I am just explaining part of the Act to Mr. Frawley.

Q.
MR. FRAWLEY: / I wanted to understand that. Do you not think that is something which puts an extra powerful weapon against truck competition in the hands of the railways at the expense of the Federal Treasury. Is that not pretty obvious?

If the competitive rate, for example, the truck rate, was 30 cents, and the actual rate by truck is 30 cents, and the rate the railways get is 30 cents, and then they get $7\frac{1}{2}$, that would look to me like subsidizing competition. In other parts of Canada, of which perhaps I may dare to speak from time to time, there is not any such thing as that.

A No.

Q And if truck competition gets a little stiff the railways have to meet it or not meet it on their own resources, but apparently they can go out and visit some pretty stiff punishment against a perfectly proper free enterprise known as a truck operation?

A That is why I say in this brief that the Duncan Commission itself did not have any idea what was coming

in connection with motor truck competition. Of course, I do not know who drafted the Act, but apparently there was some discussion about it, and the Board of Transport Commissioners, if I remember correctly - that gave rise to the Supreme Court decision. There was a dispute about it. The Canadian National Railways, in deference, and I am speaking in connection with discussions we had in this regard, did not provide - I think Mr. Bishop will remember this situation - in their competitive tariff subject to the Maritime Freight Rates Act - I am speaking of C.N. 300 --

Q Who do you say will remember?

A Mr. Bishop of the C.N. -- did not have the provision, subject to the Maritime Freight Rates Act on it, and we took up this matter with them, and there was some exchange of correspondence, and it did have "subject to the Maritime Freight Rates Act" added to it

Q The Board of Transport Commissioners may be proving a good instrument to level up the Maritime economy, but do you suppose the Parliament of Canada realizes that it is providing funds to the railways to put trucks out of business in the Maritimes?

MR. O'DONNELL: In that instance you cited the Federal Treasury saves $2\frac{1}{2}$ cents. Instead of paying out 10 cents it only pays $7\frac{1}{2}$.

MR. FRAWLEY: In that instance truck competition has the Federal Treasury, via the railways, to make it difficult for them to operate.

MR. SINCLAIR: Is that a question or argument?

MR. FRAWLEY: Q. There is another aspect of this section that is perhaps more important, section

No. 3 (2) (c). You do say that whenever you find a rate in other parts of Canada, anywhere in Canada, that is visiting prejudice upon an industry in the Maritimes you can apply to have that rate disallowed?

A Not section 3 (2) (c), section 8.

Q That is section 8. I should like you to explore that with me for a moment. I hesitate, for obvious reasons, to go back into the potato business, but suppose the southern Alberta potato producer has a market in Winnipeg?

A Yes.

Q And suppose it should happen that, because of this need on the part of the Maritime potato producer to reach new horizons, he would like some of the Winnipeg market, and he finds when he goes in there that the man in southern Alberta has a favourable rate, whatever it is called, and he thinks that perhaps something should be done about that?

A You have got the wrong interpretation.

Q Tell me what right the Maritime producer would have to go to the Board of Transport Commissioners and have that rate from Lethbridge to Winnipeg displaced?

A I think you have the wrong impression there.

Q I was fearful; that is all.

A We will say your rate, our rate, which I think you quoted this morning, was 94 cents on potatoes.

Q Yes, 93 cents to Winnipeg. You have 93 cents to Winnipeg and you meet this 64 cent rate from Lethbridge to Winnipeg, and you might think that 64 cent rate was enough to keep you out of that market?

A I will show you the mechanism of section 8.

THE CHAIRMAN: Q. What is that?

A I will show him the mechanism of section 8.

Q He must show in the first place that this rate being objected to destroys or prejudicially affects the advantages that this Act confers upon you?

A That is right.

Q The onus would be on your shoulders?

A No, the Supreme Court said that the onus is not upon us in connection with that. We always thought the onus was on us, but in the Supreme Court decision in the potato case they said the onus was not on us.

Q Who would it be on?

A That once we made a complaint that we would be prejudicially affected, that the Board with its wide powers should start in to investigate to make a determination, and so on. I remember we had a discussion on it the other day.

MR. FRAWLEY: Q. Would the onus be on the other person who is getting into the market in which you thought you were being displaced?

A No, the Board itself is the one that makes the determination, according to the potato case decision.

THE CHAIRMAN: Pardon me; do you refer to a Supreme Court case?

A The potato case, 46 C.R.C., page 161.

MR. O'DONNELL: It might be convenient if I read two paragraphs that deal with that particular thing in this report, 46 Canadian Railway Cases, 161, at page 164.

"We agree that competitive tariffs especially outside of the select territory are within the contemplation of this section, and when such tariffs prejudicially affect 'the statutory advantages', then 'the Board shall not', the statute directs, 'approve nor allow' such tariffs, and we agree with the Chief Commissioner that these words necessarily imply authority to cancel any rates having such effect; but whether any particular competitive rate has that effect must in each case be a question of fact to be determined by the Board itself.

One of the main contentions of the appellants assumes that the onus of establishing prejudice rests always upon the shippers or the complainants. We do not think that this is so. The Board itself is an administrative body with very wide experience and assisted by a skilled technical staff and is invested with administrative as well as judicial powers and duties; and, when a complaint is presented to the Board that any particular tariff constitutes an infraction of section 8 it is the duty of the Board to determine the question of prejudice or non-prejudice, always keeping in mind that it is the intention of the Act to maintain the statutory advantages in rates given thereby to persons and industries located in the select territory."

THE WITNESS: I think that is practically what I said.

MR. FRAWLEY: Q. Let us get back to the practical

situation that might develop between the Prince Edward Island producer and the southern Alberta producer seeking to gain the Winnipeg market for potatoes. Do you conceive there might be an instance where you could go to the Board and complain about that Lethbridge man's rate?

A Let us give you an illustration. This 94 cent rate --

Q That is your rate, 93 cents from New Brunswick to Winnipeg.

A We follow through the Supreme Court decision illustration in connection with that. I think I will use the Supreme Court case in connection with that.

Q Yes, use that.

A The Supreme Court decision in the interpretation case said, and I believe I quoted it here, that if you take the case of the rate on apples from British Columbia into Winnipeg - they said Ontario - and the rates were reduced from the Okanagan Valley down into Winnipeg, and we were shipping apples up to Winnipeg, shipping under the Maritime Freight Rates Act as of July 1, and that reduction was effected, that would destroy the situation that was established by the Act, the statutory advantages. Therefore section 8 would come into play. One of the primary purposes of that was that if they did not have some such provision of that kind the purpose and intent of the statutory rights under the Maritime Freight Rates Act could have been easily wiped off the Board. For example, we will say X railway ran into Montreal, and I will give you the illustration of the salt from Retsof, New York, into Cornwall and Ottawa. They immediately reduced their

rates on salt after the Maritime Freight Rates Act went in. The Board prevented it in so far as their jurisdiction applied, and that was the main reason for this section 8 being implemented there, so that the purpose and intent could not be whittled away after the Act came into effect. In other words, it would remove the statutory advantage.

Q. I am only trying to see the end result of some of these things. I am asking you to tell me what you think about that. The same thing would apply with regard to the man in Lethbridge seeking to get into Winnipeg against your New Brunswick rate?

A. There is a question here along that line that was raised by the Canadian National Railways in the Mountain Differential case about the application of the Maritime Freight Rates Act in relation to the Mountain Differential rates, that we possibly could have stepped in there, but we did not.

Q. You know that the potato growers in southern Alberta only get an eighth class rate whereas you get a commodity rate into which water competition enters as a factor, and you get 20 per cent off in addition to that, and still you think, notwithstanding those advantages, you would be entitled to displace that eighth class rate that would bring potatoes from Lethbridge?

A. You have got to remember one thing there, Mr. Frawley, and that is this, that the word "prejudice" stands out very prominently, and has been given strong consideration and stress by the Supreme Court, so if the Supreme Court or the Board in its wisdom should say that we are not prejudiced by reducing a rate from eighth class to tenth class on potatoes say from Lethbridge into Winnipeg, that then the Act probably would not be applicable.

Q. Well, it might be, if these potato growers induced the Canadian Pacific to give them a 10th class rate or something approaching your rate, a special commodity rate. Wouldn't you think you were being prejudiced, then?

A. If we were displaced, and had enjoyed a certain market and were displaced, we would naturally be prejudiced.

Q. And the end result would be that a potato grower who was 770 miles from the market would have to yield to a potato grower who was 1800 miles from the market?

A. We must also follow through, to its logical conclusion, the other aspect of it. There would hardly be any use putting in that Act if the next day the purpose and intent of it is written away by rate reductions.

Q. That is true. But I think it is fair to expose to the Board some of the serious consequences on the rest of Canada, due to the application of the Maritime Freight Rates Act.

THE CHAIRMAN: I noticed that Section 8 says that the purpose of the Act is to give certain statutory advantages.

MR. FRAWLEY: That is quite so.

THE CHAIRMAN: And if you read the rest of the Act you will find what the statutory advantages are and to whom they are given, the selected territory, and the preferred movements.

MR. FRAWLEY: Quite so; and those preferred

movements end now at Levis, or do they end at Toronto?

THE CHAIRMAN: Q. Where does it end now?

A. The select territory ends at Diamond Junction, but the preferred movement would include the movements going out from the Maritimes right to the Pacific coast of Canada, and the movements within the Maritime provinces and on exports from the select territory to ports in the Maritime provinces, so there is a difference between select territory and preferred movements. It is all defined in Section 4.

Q. First, the local traffic between points on the eastern lines; and they give an example, Sydney to Newcastle, and the preferred movement outward by rail from points on the eastern lines westbound to points in Canada beyond the limit of the eastern lines at Diamond Junction, at Levis; for example, Montreal.

The other day you spoke of an exception to Toronto. Did you assume that Montreal was the final port?

A. No, no, sir. In connection with the I.C.R., for rate-making purposes it would not necessarily mean a change within this Act, but the Canadian National Railway Act, and the proposal there was that the select territory would be up to Diamond Junction. As it is now, we have running rights into Montreal.

Q. You discussed preferred movement?

A. Oh, yes.

Q. And you used it in connection with Toronto. What did you say about that?

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A. Any part of Canada would be preferred movement to Toronto, but only in connection with the I.C.R. proposal.

Q. I understood that you meant that the 20% reimbursement reduction should be granted for traffic going as far as Toronto?

A. No, going as far as Diamond Junction. That was in conjunction with the other submission.

Q. What is your application about Toronto? You did make an application, did you not?

MR. COVERT: Is it not a question of whether the the 20% reduction should go as far as Toronto?

THE CHAIRMAN: Q. That is what I just asked him.

A. No. We did not make any proposal in that regard.

Q. But what did you propose concerning Toronto?

A. The I.C.R., for rate making purposes, should be extended to Toronto.

Q. It is just in that one connection?

A. That is right. Perhaps you might have particular arbitraries over Montreal, and using Toronto as a limit of the arbitrary over Montreal to be maintained.

MR. FRAWLEY: Perhaps I should say, in passing, that I am bound by the terms of this statute, like anyone else.

THE CHAIRMAN: You should examine the statute first, independently of section 8, to see what are those statutory advantages; and they must be respected in their entirety.

MR. FRAWLEY: That is right, and I have no instructions to challenge the Maritime Freight Rates Act.

THE CHAIRMAN: Do you agree that the interpretation of the Act is that a rate which exists only in the West, to a western market, may, nevertheless, prejudice the statutory advantages conceded by this Act to the Maritimes?

MR. FRAWLEY: Yes. And Mr. Matheson tells me that, conceivably, that situation might arise. So I regard it as my duty to place it before the Board. That was my only purpose in bringing it up.

THE WITNESS: I know of no cases in regard to western Canada, Alberta, British Columbia, Saskatchewan or Manitoba in which this Commission -- and I am speaking of the Transportation Commission -- has invoked the Act under Section 8.

THE CHAIRMAN: We shall adjourn now.

---At 5.10 p.m. the Commission adjourned until Thursday, July 21, at 10.30 a.m.

- - - - -

A.R.

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ROYAL COMMISSION ON TRANSPORTATION

FREDERICTON, N.B.
THURSDAY, JULY 21, 1949

THE HONOURABLE W.F.A. TURGEON, K.C. LL.D. Chairman

HAROLD ADAMS INNIS Commissioner

HENRY FORBES ANGUS Commissioner

- - - - -

G. R. Hunter,
Secretary

P. L. Belcourt
Asst. Secretary.

- - - - -

MR. COVERT: Mr. Chairman and members of the Commission: we will continue from yesterday with the cross-examination of Mr. Matheson.

THE CHAIRMAN: By Mr. Frawley. Has Mr. Frawley finished?

MR. FRAWLEY: No, Mr. Chairman.

RAND H. MATHESON, Recalled

MR. FRAWLEY: Mr. Chairman and members of the Commission, yesterday at page 4532 I intimated to Mr. Matheson that I would like to call his attention to some observations in the Supreme Court of Canada with regard to the reason why there was a suspension, so I want to put on the record now --

THE CHAIRMAN: The reason why --

MR. FRAWLEY: Why there was a suspension of the Crow's Nest Pass rates. Doubtless the situation is well known to the Commission, but I think it well to put on the record at this time a reference to the case of The Governments of Alberta, Saskatchewan and Manitoba, and the Canadian Pacific/Railway Company, reported in 1925 Supreme Court Reports, page 155. I should like to read a brief passage at the bottom of page 157. After referring to the terms of the original statute of 1897, Chief Justice Anglin says this:

"Tariffs in conformity with these rates were filed and maintained without serious complaint until 1917 when, owing to enormous increases in operating expenses occasioned by conditions arising out of the war, very substantial advances in

railway freight rates were found to be inevitable. These were provided for chiefly by orders in council passed under the War Measures Act during 1917 and 1918, which disregarded all restrictions upon rates imposed by such special Acts and agreements as those with which we are now concerned."

Then he goes on:

"When the Railway Act was consolidated in 1919 these emergency orders in council were about to expire. Apparently it was felt that costs of operation were still too great to permit of a return to normal conditions."

Then he refers to the section that was added to section 325 to provide for the interval. I need not go any further into it. He then goes on to deal with the whole history of the matter after that time. I wanted to call the attention of the Commission, and at the same time Mr. Matheson, to the fact that western Canada lost its Crow's Nest Pass grain rates entirely by virtue of orders in council made under the War Measures Act during the first world war.

THE WITNESS: I am aware of that.

MR. FRAWLEY: Q. Mr. Matheson, at page 74 of your brief you talk about the arbitrariness, and frankly I am just a little troubled as to why you use that word.

THE CHAIRMAN: What word?

MR. FRAWLEY: Q. Talking of the rate say from Central Canada to the Maritimes you speak about it as being an arbitrary over Montreal.

A Yes, Mr. Frawley, You remember I gave a definition of arbitrary as a fixed amount added or deducted from

a rate from one station to make a rate from another.

Q In connection with rates to the Maritimes, the use of the word "arbitrary" is just a certain technique in establishing your rate to the Maritimes?

A That has been established for years, and really works in as part and parcel, as I see it, of the rate-making in connection with the old Intercolonial Railway.

Q There are arbitraries used in the construction of rates in other parts of Canada? I will refresh your memory by making this statement to you. There are no maximum standard mileage class rates applicable between stations east of Sudbury and Sault Ste. Marie and stations west of Fort William, Port Arthur and Armstrong. The effective transcontinental class rates are constructed by the use of two factors, a basing arbitrary, which is an arbitrary rate from eastern Canada to the lakehead, plus a terminal class rate from the lakehead to destination.

A I think I mentioned that the other day.

Q That is how western Canada's class rates are made up. I put it to you when you hold for the sanctity of the arbitrary over Montreal which makes the Maritime rate, do you not think it is equally as justifiable to hold for the Fort William arbitrary which makes the western Canada class rate?

A What do you mean by the Fort William arbitrary?

Q The arbitrary east of Fort William, which is the basic factor for making the class rate from eastern Canada to western Canada points?

A We have no brief against that.

Q In other words, when you say that there must be

no increase in your arbitrary, I suppose you would find no fault if someone thought there should be no increase in the arbitrary east of Fort William which is used to make the western class rates?

A As a matter of fact, that is implicit in our case, because our rates from the Maritimes are predicated also on arbitraries over Montreal, in relation to the arbitrary between Montreal and what we call groups A and B of the Central Ontario-Quebec territory.

Q Is your attachment to the arbitrary and your desire to have it remain anything more than an attack against the method of increasing rates by horizontal percentage increases, or are there two ideas bound up together?

A There is one idea in connection with that, and it is that these arbitraries tend to lessen the impact of horizontal percentage increases.

Q Yes?

A And secondly, that we have always felt in the Maritimes that these arbitraries are essential in order to lessen the impact of rate changes and keep us on a relative competitive basis.

Q Do you say whenever an arbitrary enters into the construction of a rate then as to that rate there should be no horizontal percentage increase?

THE CHAIRMAN: No increase at all.

THE WITNESS: No increase at all in respect of the arbitrary.

MR. FRAWLEY: Q. Then what would you increase? You would increase just what was not in the arbitrary?

A The base to which the arbitrary is added or deducted, as the case may be.

Q In your case, when you speak of the arbitrary over Montreal, let us say we had a rate from Windsor to Montreal and then a rate from Windsor to Halifax. What you say is increase the rate, Windsor to Montreal, all you like, but do not increase that portion of it, Montreal to Halifax?

A You are going into the intricacies in connection with the fabrication of the rates between Montreal and Windsor, because there is that point in connection with rates in that central territory from Montreal to Windsor and to points beyond. There is an arbitrary relationship that has prevailed down the years, and I hope you do not want me to go into the intricacies of that.

Q No.

A What I am saying, for example, is this. Let us take the rate between Montreal and Toronto as being the base, and then we just add on our arbitrary to that. That particular part of the rate would be increased, and the arbitrary would be added as of April 7, 1948.

Q We will get away from Windsor or anything else that might tend to complicate it. Take any rate in any part of Canada outside of the Maritimes, from Winnipeg to Montreal or Toronto to Montreal, any rate you like. Do you say when the question of a rate increase arises, increase the rate up to Montreal by whatever percentage you need and leave the rate from Montreal east alone?

A No, you are confusing there, Mr. Frawley, with the arbitrary. I will go back to that particular

section. I think perhaps I can show you.

Q You deal with it at page 74. Is it not **there** on page 74? "It is therefore recommended" --

A I want to give you an illustration so I can follow along and give you the build-up of it, Mr. Frawley. The rate, for example, from Montreal to Toronto as of April 7, 1948, was 83 cents. That is first class. The rate from Halifax to Toronto as of April 7, 1948, is \$1.04 per hundred pounds. The difference between 83 and \$1.04 gives you a first class arbitrary of 21 cents. That is your arbitrary. That is the arbitrary that we ask to be maintained.

THE CHAIRMAN: Q. Where does it begin to operate, at Montreal?

A At Montreal. It is looked upon as an arbitrary over Montreal.

Q Does it operate both ways, east and west?

A Yes, Mr. Chairman. The arbitrary eastbound - let us see if I have it worked out here.

MR. FRAWLEY: Q. It is not the same eastbound and westbound?

A No, because the Maritime Freight Rates Act comes into play.

THE CHAIRMAN: Q. You have just given us the westbound, have you?

A That is just the westbound. You must remember that when you take the eastbound you have got to take that into consideration in connection with the Maritime Freight Rates Act in order to apply the 20 per cent reduction.

Q Yes, I know.

A And the normal arbitrary constitutes the basis --

Q You are talking of a normal arbitrary.

A Normal rate rather, constitutes the basis for the purpose of reimbursement. As an illustration of that on the eastbound/^{the}rate from Toronto to Halifax - on the first one I took Saint John --

MR. FRAWLEY: Q. No, you took Halifax.

A It is \$1.19.

THE CHAIRMAN: Q. Toronto to Halifax is \$1.19?

A And the first class rate, Toronto to Montreal, is 83 cents.

MR. FRAWLEY: Q. The same.

A That is the rate, and the difference between that is 36 cents, and that constitutes the eastbound arbitrary.

THE CHAIRMAN: Q. The rate on that shipment between Montreal and Halifax?

A That is right, the difference between that constitutes the eastbound arbitrary.

Q Your proposition is that particular 36 cent rate should never be changed?

A That is quite right, Mr. Chairman.

MR. FRAWLEY: Q. That the 36 cents must be left alone?

A That is right.

Q You must only pay something more by virtue of the increase in the rate outside of the arbitrary area?

A For example, the 83 cent rate would have gone up 21 per cent.

Q Is that not the same then? I certainly do not

want to quarrel with you because I think you are being very helpful.

Q I am not trying to quarrel with you. I am trying to clear it up for you if I possibly can.

Q I come back to what I said before, that frankly you are satisfied with increasing the 83 cent part of the rate, but not the additional arbitrary?

A Not the arbitrary.

Q That is really what it comes to. You then say to the regulatory board about to make an increase in rates for some reason or other, increase the rate outside of the arbitrary area, to coin an expression, but do not increase the rate in the Maritime area.

A Not that far, Mr. Frawley. If you take your rate within the Maritime area - we are looking at this from the long haul aspect, getting our traffic from the Maritimes to the Central Provinces.

Q So-called long haul.

A So-called; I can appreciate your reference there, Mr. Frawley, Alberta vis-a-vis the Maritimes. Looking at the situation of the Maritime Provinces if, for example, the Board should find that an increase is justifiable, that would include also the local rates within the Maritime Provinces.

THE CHAIRMAN: Q. What is that?

A The local rates within the Maritime Provinces.

Q But not through rates?

A Not through rates.

Q That is to say, anything coming to you from west of Montreal should remain unchanged from Montreal east?

A In respect to the arbitrary.

Q Yes, I mean that, nothing else but the arbitrary, and then shipments going from points down here west would be subject to the same rule. Again the rate as far as Montreal should never be changed, the arbitrary?

A That is the arbitrary.

Q On rates going through Montreal to points further west, the arbitrary applies as far as Montreal, does it not?

A There is a slight difference there. Perhaps I should clear it up now. If you take the rate from Halifax to Montreal, just the rate to Montreal, it is 88 cents.

Q You are not talking about that?

A No.

Q But in the composition of the rate between Halifax and Toronto you would say change nothing between Halifax and Montreal?

A That is the point.

Q Keep that constant?

A Yes.

MR. FRAWLEY: Q. Just to make a comparison that comes to my mind, in view of the fact that you agree with me about how western class rates are made up, could we not say just as consistently, increase the rate from Fort William west but do not increase the rate from groups A and B, the Toronto area, to the lakehead?

A. Perhaps so, Mr. Frawley. There might be some differences there which would have to be looked into.

Q. You think we would be just as consistent to say that?

A. That is a very large blanket and it involves a substantial haul.

THE CHAIRMAN: Isn't that a matter for argument?

MR. FRAWLEY: Yes, Mr. Chairman.

Q. Now, Mr. Matheson, at page 90 you point out, in the table, that the distance from Halifax to Boston is 748.1 miles, and the distance from Emsdale, Ontario, to Boston is also 748 miles; in the former case the first class rate is 289, and in the latter case it is 267. Can you tell me why there should be such a difference when the mileage is the same?

A. Yes. At the time the international class rates were revised between Canada and the United States, effective on March 3, 1938, they used -- without going into the intricacies of the matter -- a different basis from Montreal, between Montreal and United States points, than from the maritime points to certain United States points.

There came into play there the structure that was prescribed by the United States Commerce Commission in connection with the New England Freight Association territory, where they had prescribed arbitraries over a basis involving several zones in the New England Freight Association territory.

Our Commission, at the time, protested the

matter with the railways, and it is still held in abeyance, particularly between the greater part of the trunk lines' so-called territory and the maritime provinces. The result was that our groupings, which were in the systems, were considerably disrupted.

Q. Do you know whether or not the Canadian proportion of that haul would show a similarity, or would that also be disrupted against the Maritimes, as this table would seem to show, here?

A. The Canadian division -- that would be another factor which would depend on the railways. I do not know what divisions they would work out.

Q. Right from Halifax to Boston it is 289, of which the Canadian railway gets a part. The rate from Emsdale, Ontario, to Boston is 267, also of which the Canadian railway gets a part. I wonder whether or not that disability exists in the Canadian or in the American portion?

A. It all depends on whether the rates are constructed on a mileage freight rate or a class freight rate, or whatever the basis might be.

Q. So you do not know?

A. No.

Q. Now I want to take you to another matter on the same page. At the bottom of that page you say:

"1. In both Canada and the United States the regulatory authorities consider published through rates lower than combinations of rates prima facie unreasonable."

Now, how can you speak of unreasonableness, unless you

know the division?

A. In repeated cases -- perhaps I should say repeatedly -- both the Board of Transport Commissioners and the Interstate Commerce Commission have laid down the dictum that the matter of division is a matter between the railways concerned, and that all the shipper should be interested in is the rate per se.

Q. Yes?

A. However, this matter of combinations is a different situation. Let us assume that you have a through rate from X to Y, but over an intermediate point there is a rate on the same commodity to that intermediate point plus a rate beyond. It is a combination of rates, and if that combination of rates is lower than the published joint through rate, which is the legal rate, the Board of Transport Commissioners and the Interstate Commerce Commission have found, repeatedly, that such combination of rates is prima facie unreasonable.

Q. Now will you look at page 94, at the top, apropos of that, where you say:

"In fact, to the extent that proportions of through international rates exceed the local rates from Canadian points to border points there exist elements of unreasonableness if the action taken by the Interstate Commerce Commission in the case of National Construction Company v. C.P. Railway Company et al (222 I.C.C. 372) can be used as a criterion."

Now should that not be read as: In fact, to the extent

of the Canadian proportions of the through international rates exceed the local rates from Canadian points to border points. Isn't that what it means?

A. No; I am looking at it, more or less, from the situation which at present obtains in regard to rates from maritime points to, or through, Central Freight Association territory, where the combination of rates over Windsor, let us say, to Chicago are lower than published through rates. That is to say, the railways may or may not be getting a greater division on the haul to Windsor than they would if there was a local movement to Windsor, and the shipment was reshipped from Windsor on to Chicago. Do you follow me?

THE CHAIRMAN: Is it not a mistake to make up combinations of rates with the two local rates? As I understand it, if the through rate is more than a combination of two local rates, then it is unreasonable?

MR. FRAWLEY: Yes.

THE CHAIRMAN: But the manner in which the two railways divide the proceeds between themselves can have no bearing on that at all.

MR. FRAWLEY: That really is the point, at the moment. The matter of combinations is something which, I understand, should not have a bearing.

THE CHAIRMAN: That cannot make any difference to the shipper; he is paid anyhow and they divide it among themselves.

MR. FRAWLEY: That may be so.

THE CHAIRMAN: As I understand it, the point is a very obvious one. If the through rate is more than two combined locals, it is prima facie unreasonable.

MR. FRAWLEY: I think that is right. We lose jurisdiction concerning the joint through single factor rate.

THE WITNESS: That is quite a legal question, Mr. Frawley.

MR. SINCLAIR: Q. Even the Supreme Court of the United States doesn't know the answer to that one?

A. I can quote you questions and answers which were put to the Supreme Court in the United States in the case of the News Syndicate v. the New York Central Railway, 275 United States Supreme Court Reports 179. And the same decision was considered.

THE CHAIRMAN: Q. What page?

A. Page 179, Mr. Chairman.

Q. What is the name of the case?

A. News Syndicate Company v. the New York Central Railway, 275 U.S. 179.

MR. SINCLAIR: Q. Will you put the Lewis-Simas-Jones case alongside of that?

A. Yes, I was coming to that. And there is the Lewis-Simas-Jones Company v. the Southern Pacific Company, 283 U.S. 654.

THE CHAIRMAN: Q. United States Supreme Court?

A. Yes.

MR. FRAWLEY: Q. And how do you spell Lewis?

A. L-e-w-i-s. And there is also a recent case in which you might be interested, Mr. Frawley. It is the Carstens Packing Company case and it is quoted in the brief.

MR. SINCLAIR: Yes, it is quoted at page 91, at the bottom in Note 142.

THE CHAIRMAN: Q. There it is spelt Carstons.

A. No, it should be spelt with an "e". Carstens Packing Company v. Great Northern Railway, 264 I.C.C. 164.

That is a very interesting case, because it brings a question of combinations into play; and I believe it pertains to your own territory of Alberta, Mr. Frawley. Yes, it does; on traffic moving to Spokane, Seattle and Tacoma, Washington, on, I believe, livestock. Now, in that News Syndicate case --

MR. FRAWLEY: Q. What year is the Carstens case?

A. I will give you the date in just one moment. It was submitted on December 18, 1944, and was decided on December 7, 1945. So you see, it is quite a recent case.

MR. SINCLAIR: Q. There have been some further orders on it, too.

A. I have not received the further orders. I would be very much interested to know what has evolved from the further orders.

MR. FRAWLEY: Q. Let us pass on to something

else. Coming now to page 103, where you discuss joint through rates within the maritimes, do you have much difficulty in the maritimes with the railways in finding, let us say, if you are shipping goods from an originating point on one line and terminating on another line, that you must pay two full rates, one to the farthest point to which the first railway can take it, and then commencing another rate when it is handed over to the other carrier?

A. I have found in some instances -- I have in mind the case of apples which originated on the D.A.R., and the D.A.R. handed them to the C.N.R.; and the C.N.R. were not quite satisfied with the division. But they eventually came through with a joint through rate.

However, that was a voluntary action on the part of both railways. And I feel, and have felt for some time, that unless you get a voluntary action, you could not -- or rather the Board could not step in under the provisions of the Railway Act.

Q. Apples let us say, starting in Kentville, or wherever they are grown, and moving, let us say, to a point in Cape Breton?

A. There is a combined through rate there, incidentally. But these were apples moving to Ontario and Quebec points.

Q. Let us take a local movement in the maritimes. Would there not be some places in the maritimes for apples originating in Kentville on the Canadian Pacific, and going up to a point on the Canadian National, where there would not be a joint through rate?

A. That is correct.

Q. Then why would the shipper or consumer have to put up with that?

A. These are matters which can be taken up with the carriers. I have found them very willing to sit down and discuss such matters.

Q. You say there are places where you have to pay two rates?

A. That is right.

Q. I am only thinking of those. To the extent that if they are induced to make a joint through rate, then it has been accomplished. But with respect to the others, why is that situation allowed to continue?

A. There are also, in some instances, what we call proportionately class rates on both the D.A.R. and the C.N.R., for example, which are less than the rates going up to the interchanging point.

Q. I do not want to discuss the situation here and cite examples in Alberta, because there will be other opportunities to do so, but can you tell us what it is that brings about the situation which you say obtains, that of apples between Kentville and Cape Breton?

A. It is simply a matter of the shipper saying to the railways: There is a combination of rates here, and we think there should be a joint through rate established; so they consider the matter and discuss it, and, if there is any dispute -- sometimes we have had cases where the two railways got into a discussion

over the matter of combinations. I have had some correspondence with the Board in that respect, where I intervened and said: We want to get these rates established as quickly as possible. Apparently there is an agreement with respect to the through rates, but not with respect to combinations.

It might be that one railway might want a proportion of a class pro rate instead of a mileage pro rate because it might only have a short haul to the junction point. And eventually, in one case, I think, we saw, quickly, that the matter was adjusted.

Q. I want to get over this as quickly as I can; but I am concerned with this question of the inter-relation of rates, or the absence of joint through rates, because it obtains in my province, very materially. And I want to know what it is that leaves the situation without the joint through rates, and to say that in the maritimes there will be a joint through rate from Kentville to some Canadian National point -- I am not concerned with that; but what is it that leaves the other situation so that a man who is bringing apples from Kentville to some other point on the Canadian National would have to pay two rates?

A. You would have to know what traffic is involved and what movement is involved. I cannot give you the answer. I do not know the situation out in the West. I do not know if your boards of trade or the shippers have discussed this matter with the railways. That is an important thing.

I feel, in respect to our coal rates, there

should be an extension of the joint through rates. As a matter of fact, I shall announce right now to the railways that I am contacting them in respect to joint through rates on coal to the maritime provinces. You have a much better arrangement in the West on joint through rates on coal, which was provided by the Western Rates Case in 1914.

Q. Does Cape Breton coal come over to the Canadian Pacific by joint through rates?

A. No.

Q. So I gather, from what you say, it is a matter of putting pressure on the railways by means of some board of trade?

A. I would not say pressure at all. It is a matter of taking it up and sitting down around a table and negotiating it.

Q. Why isn't it a matter of concern?

A. Would the railways take the initiative?

Q. I am concerned why it should be a matter of difficulty in getting a joint through rate on these two Canadian railways.

THE CHAIRMAN: Have you in mind that the Board of Transport Commissioners should impose joint through rates in that case?

MR. FRAWLEY: Yes.

THE CHAIRMAN: If you do not, it must be left to the railways.

MR. FRAWLEY: Would the Board of Transport Commissioners have the right, in each case, to require a joint through rate?

THE WITNESS: How does that section read now? I do not know whether it is "may" or "shall".

THE CHAIRMAN: Right here in the maritimes, they are quite content to leave it to these two railways.

MR. FRAWLEY: That is right.

THE CHAIRMAN: But you may not be content with that?

MR. FRAWLEY: That is the fact, precisely; and we will be making a submission about it.

THE CHAIRMAN: You may argue for something different.

MR. O'DONNELL: Your Crows Nest Pass rates are very low.

MR. FRAWLEY: I want to get the advantage of Mr. Matheson while he is here.

THE CHAIRMAN: You have it now.

MR. FRAWLEY: I think that is as far as I can get to-day.

THE WITNESS: 336 is the section.

MR. O'DONNELL: Q. Are there not some joint through rates on coal to Canadian Pacific points in New Brunswick?

A. There is St. Stephens, and McAdam Junction, which was recently added, I do not know how long ago. It was not in originally. But I think that is mostly railway coal.

MR. O'DONNELL: You do not want it on that?

MR. FRAWLEY: Q. Did you read the transcript of the Saskatchewan sittings?

A. No, Mr. Frawley; I glanced through some of

them, but I did not really have the time.

Q. I commend them to your consideration, and the Tisdale Case.

MR. SINCLAIR: He would not understand it.

MR. FRAWLEY: Q. Another matter which borders on that very closely is the question of interchange. I am told that in Alberta -- and I suppose to some extent it obtains in the maritimes, that while there might be fifty places where the two railways physically touch there may be only forty per cent of those instances where there are interchanging facilities, as they call them.

THE CHAIRMAN: What do you mean by "facilities"?

MR. FRAWLEY: At Tisdale, Saskatchewan, there were no interchanging facilities. The railways crossed, but they simply crossed at a right angle; and a certain movement had to traverse a large part of Saskatchewan to get to the point to which it was going.

THE CHAIRMAN: What is your point about that?

MR. FRAWLEY: Q. I want to know what the situation in the maritimes is with regard to the number of points at which the railways have not provided interchange facilities, even though they are common to the same points?

A. I do not know. I think at all points in the maritimes, where the Canadian National and the Canadian Pacific join, there are interchanging facilities. We are very well satisfied with the situation.

Q. They all join. You are all taken care of there.

MR. O'DONNELL: And they all cost something, too.

MR. SPENCE: That is covered by section 313 of the Railway Act.

THE WITNESS: I think the main section is section 253 of the Railway Act in connection with interchange, and there are quite a number of interesting decisions on that. There is one case which is reported in 20 C.R.C. 200, a judgment by Chief Justice Fullerton. The case is C.N.O.R. v. Canadian Pacific Railway, 20 C.R.C. 200.

MR. O'DONNELL: Section 323 deals with crossings of tracks.

THE CHAIRMAN: One is the connections of intersecting railway lines; and the other is the interchange of traffic between connecting lines.

THE WITNESS: Section 253 deals principally with the construction of physical connections between railways to enable traffic to be interchanged. That is not the kind of difficulty that Mr. Frawley has in mind.

Sections 315 and 316 also deal with interchange, but they are concerned with questions which arise after the interchange track has been constructed.

MR. FRAWLEY: Q. On another question you said that in the province of New Brunswick truckers were required to file their rates. Now, Mr. Barry, yesterday, said he would bring to the Commission

information in that respect. Have you got it there with you?

A. Unfortunately, I did not take that particular file up with me. But for some years now the franchised common carriers, the common carriers have been required to file their rates under the regulations pursuant to the Act, in connection with motor carriers.

Q. When you speak about "franchised," does a certain truck company get the exclusive right to run on a certain highway?

A. That is correct.

Q. And for that privilege he must advise the Motor Carrier Board of the rates he is to charge?

A. He must come up and prove convenience and necessity before he gets the franchise; and then he must file the rates and submit statistical reports.

Q. And then you say he must file the rates that he proposes to charge?

A. That is right. I remember the regulations.

THE CHAIRMAN: . You are talking about New Brunswick?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Didn't Mr. Barry promise yesterday to give us that information?

(Page 4585 follows)

MR. FRAWLEY: That is right; I thought he was here, and I looked around the room. Perhaps it is my own fault. I should have been more industrious in providing myself with the regulation. Apparently the Commission is having copies supplied.

THE CHAIRMAN: You see, if we are to have the regulations themselves, they will be in writing and will speak for themselves. I do not see much use in asking Mr. Matheson what he remembers about them.

MR. FRAWLEY: No, that is quite so. Well, I may have an opportunity to ask Mr. Matheson about them in Charlottetown. Mr. Barry says they will be supplied.

THE WITNESS: That is right.

MR. FRAWLEY: Q. Now, Mr. Matheson, I only want to call your attention to one more matter, and that is what I think --

THE CHAIRMAN: Would you let me intervene for a moment.

Q. Coming back to the foot of page 90, it says there in clause 1 at the foot of the page:

"In both Canada and the United States the regulatory authorities consider published through rates lower than combinations of rates prima facie unreasonable."

Shouldn't that be "higher"?

A. "Higher", Mr. Chairman. Thank you for calling that to my attention.

THE CHAIRMAN: Dr. Angus noticed that.

MR. FRAWLEY: Q. On page 136, the last page in Volume 1, Mr. Matheson, you have a reference in your footnote 188, which I think you will find is a

typographical error; that is the reference to the page number of the 21% case; that should be page 66?

A. 66.

THE CHAIRMAN: Instead of 64?

MR. FRAWLEY: Instead of 64, my lord.

Q. Now, there is one question of zoning I would like to discuss with you for a moment. You are presenting to the Commission the plight of the province of Prince Edward Island in the matter of shipping zones?

A. That is right.

Q. In other words, the Province of Prince Edward Island is divided into two areas called zones from which goods are shipped up into Central Canada or elsewhere?

A. On the long-haul traffic to Canadian points, there are more zones than two in respect of some rates going to United States points.

Q. Elsewhere in the Maritime Provinces zones have been set up?

A. Yes, zones, or groups, if you wish to call them so.

Q. And they are roughly comparable to the shipping zones called groups A and B in Central Canada?

A. Well, your groups A and B rates as I remember them to Vancouver from Central Canada are all on the same basis -- to Vancouver; I am just taking that as a specific illustration.

Q. Are they the same to points in Manitoba, Saskatchewan and Alberta?

A. Yes, it would be the same, Manitoba and Saskatchewan.

Q. Now, as Manager of the Transportation Commission

of the Maritime Board of Trade, do you think that zoning of shipping points is a sound and sensible thing in transportation?

A There are quite a lot of decisions in that respect, Mr. Frawley, in regard to zoning and grouping to equalize the impact of long-haul rates and to facilitate competition among producers. It is a medium. It does not recognize the distance factor.

Q. That is quite sufficient for my purpose, Mr. Matheson. You would not want, in Prince Edward Island or elsewhere in the Maritimes, to have a different rate from every shipping point in that province ?

A. You see, Mr. Frawley, there are some other factors that come into play there. You have got to look back to the historical basis of freight rates in the Maritimes. You see, when the Intercolonial was first established here we had a lot of boats, schooners, vessels, and the indentations of our coastline are such that there is only a short distance from water even at the most interior points, and the railways were faced with this in addition to the over-all picture in order to afford persons and industries to get the larger markets -- that particular aspect -- but the railways have been faced with this water competition, and it is inherent in the whole basic rate structure within the Maritime Provinces, and it is very interesting; you can look at the footnote where I refer to the classifications and the establishment of the first rates when the railways got together between Montreal and the Grand Trunk, they realized that when they agreed to these rates they would not be sufficient in order to attract the traffic, so you find permeating through our

whole rate structure this competitive factor, so it has a very important bearing in connection with your whole rate structure and also in connection with your groupings.

Q. All I want to know from you is whether or not you think that it is a sound proposition that there should be groupings of factories for shipping purposes?

A. That has been looked upon as sound by regulatory bodies in prescribing groups in connection with freight rates, and you will find a very interesting angle on that in your Western Rate Case in 1914.

Q. And do you know that the Alberta Canning Factory, located at Magrath, Alberta, has a higher rate than the Broder Canning Factory at Lethbridge, Alberta, 20 miles away, when they both want to ship to Edmonton?

A. You are asking a different aspect of that. I could not tell you that in detail.

Q. Thank you very much, that is all.

THE CHAIRMAN: Next.

CROSS-EXAMINED BY MR. O'DONNELL:

Q. Mr. Matheson, would you tell the Commission whether you would consider a proposal that the Maritime Freight Rates Act should operate with respect to the 20% reduction both east and west to be something that is in the interest of the Maritime Provinces?

A. Mr. O'Donnell, the New Brunswick brief has presented their case on that. It is a question of policy, of Government policy, and, as you remember our set-up, our Maritime Transportation Commission, while under the aegis of the Maritime Board of Trade, is supported financially by the three Provincial Governments, and far be it from me to bring up any conflict or any question

of conflict in connection with any answer in regard to that particular matter .

Q. But I am not speaking at all of the New Brunswick brief, Mr. Matheson; I am merely asking you as a man who has some considerable contacts in the Maritime Provinces, and who knows the situation in the provinces, what your own personal view is, if you would care to give it?

A. I think it is quite clear in our brief what the stand of the Maritime Transportation Commission is.

Q. That may be, but I am asking you now as a man of many years' experience personally whether you consider it something that is in the interest of --

THE CHAIRMAN: Are you quite sure the question is fair? Mr. Matheson is speaking here for the Association.

MR. O'DONNELL: Well, if he prefers not to give me his own personal view, that is all right.

THE CHAIRMAN: He has presented their brief, and he is expounding it for you, explaining it to you.

MR. O'DONNELL: I do not wish to be unfair , Mr. Chairman,. If you think that I should not ask him for his view on the matter, that is quite all right.

THE CHAIRMAN: Well, I will leave it to you.

MR. O'DONNELL: Well, I will leave it to Mr. Matheson.

THE WITNESS: Well, I could answer it this way, Mr. Chairman. On page 88 of our brief, number 3, in connection with our proposal we state:

"Safeguarding the consumer interests while maintaining a "differential between" under the Maritime Freight Rates Act."

And if you go back to the --

THE CHAIRMAN: Q. What is the meaning of

"differential between"?

A. That should be "discrimination between", sir. That is what we discussed the other day. That is the discrimination, the 20 % reduction westbound.

MR. O'DONNELL: Q. Let me put it this way, Mr. Matheson --

MR. SINCLAIR: 314 (4).

THE CHAIRMAN: Q. The 20% reduction westbound, that is what you mean?

A. That is right, sir. I am quoting now from the Supreme Court of Canada case re the Maritime Freight Rates Act, 1933 S.C.R., pages 438 and 439.

Q. Give us that again, will you? What is the case?

A. The case of Re Maritime Freight Rates Act.

Q. Where is it to be found?

A. It is found in 1933 Supreme Court Reports, page 423, at the bottom of page 438 and the top of page 439.

Chief Justice Duff says:

"Shippers, in Nova Scotia of apples, for example, destined for Montreal, are to enjoy reduced rates which are to go into effect immediately on the passing of the statute (rates 20% below the existing rates); and to the extent of this reduction the Board is required to maintain a 'discrimination between' (Railway Act, S.314) the select territory and other localities where apples are produced and shipped -- the apple districts of Ontario, for example, and British Columbia."

MR. O'DONNELL: Q. That is on a shipment west-bound?

A. That is quite correct.

Q. Let us put it this way, and if you do not wish to express your personal view that is all right with me: would you consider for instance that the Bendix Washing Machine Company, which has recently been established at Amherst, Nova Scotia, would be in favour of having to meet any competition which now exists from shippers or manufacturers in Upper Canada, on a basis which permits those manufacturers of Upper Canada to get into the Maritimes any more cheaply than they do at the present time?

A. I am in agreement in that respect with the statement made by Professor McIntosh to the Sirois Commission. I am answering this indirectly. At page 89 of his Report to the Sirois Commission, Professor McIntosh states as follows:

"Though it is difficult to reach a precise conclusion, improved transportation appears to have been more successful in opening the Maritime markets to Central Canada than in opening the Ontario and Quebec markets to the Maritime Provinces. Exposed to competition from Central Canada and the West, Maritime agriculture contracted and sought refuge in more specialized products. Increasing centralization and the enlarging scale of manufacture have handicapped Maritime manufacturers with their small local market. For those industries, such as the coal and steel industries, which have large markets in Central Canada, it is significant that the largest part of their market is highly competitive and marginal."

So any reduction that would in any way disrupt or upset our industries down here would have, I think, a detrimental

effect; but I wanted to point out --

Q. That is what Professor McIntosh says; and you agree with him?

A. On my basic proposals, that we are suggesting in connection with arbitraries we are having the effect of impeding the facts on horizontal percentage increases, and I feel also --

Q. Well, do you --

A. I will follow it through, if you don't mind: that in regard to some basic materials essential for production purposes, those commodities should be held down so as to enable our producers to get some of their raw materials for production purposes.

Q. I think you have answered my question. You adopt the view expressed by Professor McIntosh that you refer to. Would you turn now to the New Brunswick brief? You remember that several questions were left in abeyance for your attention, Mr. Matheson, particularly the coal question. I could go on, of course, drawing other examples to your attention, for instance as to whether or not, getting to more mundane things, the breweries in Halifax, Oland's in Halifax, for instance, would welcome the more intensified competition from the breweries in Central Canada -- for instance, National or Molson's or Labatt's -- by getting their product into Halifax at a cheaper rate than they presently do? You do not think Mr. Oland would appreciate that very much?

(No answer)

THE CHAIRMAN: Mr. Matheson's body is not asking for this decrease in rates.

MR. O'DONNELL: That is right, my lord.

Q. Now, Mr. Matheson, at the top of page 18 it is said:

"....it is apparent that the Minto-Chipman field is entirely different from competing fields;" and at the end of the clause:

"....it should not be grouped with other fields." Then in the middle of page 19:

"The Maritime coal fields are considered as one group for freight rates...."

Now, is that, strictly speaking, correct?

A. No, that is not correct.

Q. You did not write the coal brief?

A. I had nothing to do with this report.

Q. Because, on my information, Mr. Matheson, there are really four groups, are there not, for coal in the Maritimes?

A. There is the Sydney group, the Stellarton group -- I call it the Stellarton group -- the Cumberland County group --

Q. And the Minto?

A. Well, when you mention just Minto, the Minto does come into the same group as Springhill and Maccan in respect of some rates to C.N.R. points, and to other points Minto would be -- when I speak of Minto I am speaking of Hardwood Ridge or from Chipman -- would be in a different group, but you will find quite a number of instances where Chipman and Hardwood Ridge are in the same group as Springhill Junction and Maccan.

Q. But generally speaking there are different groups, and the Maritime coal fields are not one group for freight rate purposes?

A. That is correct.

THE CHAIRMAN: Q. That sentence goes on to say: This makes it possible to move Nova Scotia coal into New Brunswick to our natural markets at prices which make it difficult for our producers to compete." All that, then, is not correct, is it

A. I think what they have in mind there -- perhaps I should not speak for their brief, but I think what they had in mind there was that this grouping from Nova Scotia perhaps facilitates their movement of coal into the New Brunswick market.

Q. That is what they say; they say that is because there is only one group?

A. But, you see, unfortunately, the premise is wrong, sir.

MR. O'DONNELL: Q. The first phrase there, "The Maritime coal fields are considered as one group for freight rates," that is the part that is not correct

A. That is not correct.

Q. And in that connection --

THE CHAIRMAN: Q. Is it true, then, that it is not possible to move Nova Scotia coal into New Brunswick at prices which make it difficult for our producers to compete? Do you know that?

A. I really believe that what they have in mind -- and I think Mr. Barry would check up on this - I think what they are concerned about, as you will notice from the illustration, is around the north shore of New Brunswick, and that this field, the Minto field, in so far as Hardwood Ridge and Chipman are concerned, are in the same group as Springhill and Maccan, and I think that is what they have in mind. They do not mean the whole

Maritime coal field. That would follow, then, if that is what their intent is.

MR. O'DONNELL: Q. I am just interested in correcting the fact as to whether or not the Maritime coal fields are considered as one group for freight rates, and that is not correct; and I respectfully draw the attention of the Board to C.N. railway tariff No. C.C.250, C.T.C. E. -2248. For instance, at page 26 we have it clearly demonstrated that there are different groups. For instance, South Devon, which is just across the river, the rate from Cape Breton to South Devon is \$2.50, the rate from Pictou County collieries, \$2.00, and the rate from Cumberland County collieries \$1.70 and from the Minto district \$1.30, so there is a very considerable difference.

A. Of course, I would not take that as a good illustration, Mr. O'Donnell.

Q. Well, I just took that from the tariff to indicate that there were different groups.

A. Because the Devon is there, you see, for the short-haul from the other point.

Q. All I am intersted in pointing out, Mr. Matheson, is that on the face of this tariff -- and take any page you please -- you will find that there are four distinct groups?

A. Yes. Well, I want to clear that. I have not got the tariff, and I am only speaking from memory, but if you take Campbellton, and take the rate from --

Q. Well, there are, I agree, competitive rates which may be slightly different, but I am speaking of general specific rates.

A. Take the normal Campbellton rate, then, the first

part of the tariff.

Q. My point is simply that the general specific rates are in four different groups.

A. Well, you see, there are not four groups there. There are one, two, three groups. I just want to clear it. It is a mere detail; perhaps I should not argue.

Q. I agree that there are certain rates on a competitive basis where there might be a slight difference, but other than that the Maritime coal fields, the freight rates for those fields fall generally speaking into four different groups; that is all I had in mind. Now will you be good enough to turn to page 20 of the brief, where there is a statement that the rate structure has failed to recognize the Minto field as a distinct and separate coal mining area; that also is not exact, is it?

A. What line, Mr. O'Donnell?

Q. About the fifth line under the heading "Regrouping":
"...the rate structure evolved failed to recognize the Minto field as a distinct and separate coal mining area."

Minto gets the benefit of its geographic advantage on all rates to all points, does it not? The same mileage scale applies for normal rates as from Nova Scotia mines, for instance?

(Page 4600 follows)

A You are speaking there of the Maritime coal scale; I would say that they would be related to the basis of the Maritime coal scale, and I think in some instances where there have been competitive rates implemented from some coaling areas they get the benefit of those rates as well. I think what they have in mind there is that perhaps the distance factor, in so far as the Minto area is concerned, has not been given greater consideration. That is a matter that it has been recommended to their Association to take it up with the Board of Transport Commissioners to have the matter resolved.

Q But as it stands at the present time the mileage scale with normal rates is the same from Minto as it is from the Nova Scotia mines?

A I would have to check into the details to see about the rate structure.

Q You are not familiar with that?

A I am familiar with the scale, but it is just a question of working it out to see how they break. For example, since you have brought it up, the mileage from Chipman to Campbellton, as an illustration, is 221 miles. The mileage from Springhill Junction is 253 miles.

Q.
THE CHAIRMAN: That is to Campbellton?

A That is to Campbellton.

MR. O'DONNELL: Q. The Campbellton rates are all competitive rates, are they not?

THE CHAIRMAN: What?

Q.
MR. O'DONNELL: All competitive rates?

A The Campbellton rate from Springhill Junction, as I have it here, is \$1.40.

Q That is right.

A And from Chipman it is \$1.40.

Q They are both competitive rates as noted on the face of the tariff, competitive rates not applicable from or to intermediate points.

A Is it on the face of the tariff or in connection with the specific item?

Q The specific item 492. We referred to the Campbellton rate, and the notation is "competitive rate, not applicable" --

A That is a competitive rate.

MR. FRAWLEY: What is the competition?

MR. O'DONNELL: Water competition and potential water competition.

THE WITNESS: Strong potential.

MR. FRAWLEY: All potential, is it not?

MR. O'DONNELL: It may be now, but we had a man from Dalhousie say yesterday that his mill was so built that there is a dock where they can tie a ship up at any time. There was a ship before the railways put in a competitive rate.

MR. FRAWLEY: Build a dock and get a rate.

Mr. O'DONNELL: Build a dock and float a ship and put some coal on it and then you get the rate, not before.

THE WITNESS: It is not that easy, Mr. Frawley.

MR. O'DONNELL: Q. These competitive rates, to your knowledge, to Bathurst and Dalhousie were put in to meet water competition which did at one time exist?

A Oh, it was very strong competition.

Q Then I will refer you to page 24 of the same

brief, Mr. Matheson. Here again I understand you did not write the statements that appear there, but you are familiar, I take it, with the rates as set out in Appendix A. Is it not a fact that the rates as there set out do not quite give the full picture in that no allowance is made for the charges made by the original line in some instances? For instance Item 1, Sydney to Dalhousie, the Sydney and Louisburg Railway Company handles the coal before it gets to Sydney, does it not, and makes a charge of 28 cents for doing it?

A Per gross ton. On the dual haul that would change that rate of \$2.10. In that case you may remember the 20 cents maximum rate is divided between the two carriers.

Q That \$2.10 is the Maritime Freight Rates Act rate?

A The Maritime Freight Rates Act rate, and there is one other --

Q They all are in this Appendix A. The third example, Springhill Junction to Dalhousie, New Brunswick, there again there is a charge of 18 cents, I understand, by the Cumberland Railway and Coal Company which handles the coal in the first instance to get it Springhill Junction. I think that is correct?

A Just one second, Mr. O'Donnell. I want to check this. The per net ton is 17.8 cents.

Q Yes, that is correct, 17.8 cents. I called it 18 cents. In the footnote it says:

"In addition there is a charge of 10 cents per ton for moving coal from Minto to Hardwood Ridge;" --

If I remember correctly, Mr. Tooke said that while they felt that was the cost of doing it they did not make any charge for doing it. Was that not the situation?

A It is their own cost of operation.

Q That is on their own line and they do it for their own purposes?

A They pay the crew and the oil, and what have you.

Q But they do not make any charge of 10 cents a ton for moving coal from Minto to Hardwood Ridge?

A There used to be a time in that field when the Miramichi Coal Company was a separate coal company from the Minto Coal Company. The Miramichi was close by, and they had a connecting spur, and the Minto Coal Company used to charge the Miramichi.

Q That is changed by reason of the fact that the Miramichi Lumber Company now owns the Minto Coal Company?

A Yes.

Q Mr. Tooke said there was no charge, although that may be the cost of doing it?

A Yes.

Q As to the statement in the brief at the bottom of the page, have you any idea where the information was obtained which would support that statement, or whether it is correct?

A I have no idea because I had nothing to do with that particular aspect of the brief.

Q My information, Mr. Chairman, is that the railways do not set up a charge on the basis there --

THE CHAIRMAN: On the basis what?

MR. O'DONNELL: As mentioned in that footnote.

The footnote reads:

"The rate from Sydney, N. S., to Dalhousie, N.B., is less than the actual cost as calculated by the railway for O.C.S. coal", --

I was interested to find out where anyone would have obtained that information, because my understanding, on the information I have, is that the railways do not set up a charge for O.C.S. coal, and that no costs are kept which would permit this statement being made.

THE CHAIRMAN: What is O.C.S.?

MR. COVERT: On company service.

THE CHAIRMAN: Their own coal?

MR. O'DONNELL: Yes.

THE WITNESS: Are you intending to make a statement in connection with that?

MR. O'DONNELL: Q. My information is that they do not.

A I can say this, that for the purpose of subventions in connection with coal that was so, but whether there are now or not I don't know. There were figures determined for O.C.S. coal for the purpose of subventions, but what the situation is today - I don't know anything about it.

Q No subvention is referred to in that statement.

A No subvention is referred to here.

Q As I say, my information is that no such costs are kept, and that statement must be someone else's idea of what the situation is, and it is incorrect.

THE CHAIRMAN: There is no such calculation made. Is that it?

MR. O'DONNELL: That is my information.

MR. FRAWLEY: Mr. Matheson just pointed out there was such a calculation.

MR. O'DONNELL: During the war seven or eight years ago, but not now.

Q Would you please turn to page 25?

A Just one moment before you go on there, Mr. O'Donnell. Your coal department would be able to work in connection with this, but as to your coal originating in Minto to be laid down to be used by engines at a certain place, in order to balance the situation with coal from some other point, are there not some calculations made? I had occasion to go into this some time ago in connection with the Coal Commission, and I was always under the impression that for the company's own cost set-up, for your laid-down cost of coal on your system, there were figures calculated, and that the same thing obtained in connection with the C.P.R., that there was some method of working out just what the actual cost of the coal concerned was. After all you have to haul that coal, and it is a part of the cost of operation, and so on.

Q All I was interested in was refuting the suggestion there that the rate from Sydney to Dalhousie was a non-compensatory rate. That is all I am interested in, and the basis for the assertion there that the actual cost to the railways for O.C.S. coal was in play. I say there is no information concerning that, and that the statement in the circumstances cannot be correct, notwithstanding what someone may have thought of it. There is no bad faith imputed at all. It is just somebody's idea of what the

situation was. On page 25 there again the rates set out in that table have to be adjusted before they are strictly correct. It is a fact, is it not, that there is no coal mined at Maccan?

A The coal is mined at Joggins.

Q And they have to get the coal from the Joggins mine to Maccan, and a charge of 51 cents has to be paid? Is that not correct?

A Just one moment, and I will give you the rate from Joggins. I have it as 48 cents.

Q Forty-eight cents plus the increase of three cents.

A What increase of three cents?

A That is the 21 per cent.

A No, it would not be 21 per cent on coal.

Q That is the division of the flat increase?

A That is right.

Q So you would agree that 51 cents has to be added to the rate shown under the heading "Maccan" on that?

A There might be an angle there. They are making a comparison of the rates on the C.N.R. from the different points on the haul in to the other points, what that charge may be. That is another picture. It all depends what their approach is. They say from Hardwood Ridge, and then they take Maccan. It depends on what they are trying to compare. They are comparing rates on one railroad versus another, and let us assume there was a mine located at Maccan.

Q But there is not? I am pointing out from my information --

A There is no mine at Hardwood Ridge.

Q The charge is 51 cents more than shown. That is all I am interested in. The Joggins mine is owned by the Maritime Coal, Railway & Power Company?

A I want to get it clear that if a person was setting up a comparison with Hardwood Ridge, there is no coal mine at Hardwood Ridge.

Q That is right.

A If, for example, they had used in that statement Minto, right in the town of Minto, and took Springhill Junction or Maccan, then I would say the comparison would not be on all fours.

Q I am not asking you to make any comparison. I am merely asking you if the rates shown under the heading of "Maccan" are inaccurate to the extent of 51 cents in each instance represented by the charge for carrying the coal from the Joggins mine, which is owned by the Maritime Coal, Railway and Power Company, to Maccan.

A There is a charge from Hardwood Ridge.

Q Maybe the other is wrong too, but at least the Maccan rate is wrong.

A I want to be fair about this.

Q I want to be fair, too.

A I had nothing to do with this. These are their own rates and calculations, and I wanted to approach it objectively. If the thought in their mind is comparing rates on the C.N.R., on which the C.N.R. charges, that relationship is all right.

Q On the face of page 25 it says:

"Note that Minto field has to pay additional cost of 10 cents per ton to get coal from mines

to Hardwood Ridge."

A That would bring into play other charges.

Q That brings into play the fact that Mr. Tooke told us there was no charge made yesterday?

A There is a cost there. It costs ten cents probably to move the coal.

Q I do not want to take any time with it. All I am asking you to agree with me on is that the rates under the heading "Maccan" on that page are wrong in that 51 cents should be added in each instance to meet the cost or pay the cost of carrying the coal from Joggins mine to Maccan.

A And also a 10 cent charge should be added on to --

Q Do not let us complicate it by the 10 cent charge. Just say yes, and then say anything you want about the 10 cent charge.

A I want to get this clear. I do not want to argue with you. If the purpose and intent of this is a comparison - I had nothing to do with it - with the grouping set up at Hardwood Ridge vis-a-vis Maccan, then I think perhaps their comparison is all right, but if, for example, they wanted to compare the cost of moving coal, or the price of moving coal - I want to differentiate - from Minto vis-a-vis Joggins or Springhill mine then this does not give the picture.

Q Let us shorten it up and say that there is no mine at Maccan?

A There is no mine at Maccan or at Hardwood Ridge.

Q And the coal which comes into Maccan is from the Joggins mine?

A Yes.

Q And it costs 51 cents to get it in?

A That is right.

Q Fine. That is all I am interested in. That is all I have to ask you about the New Brunswick brief, so you might put that away. Mr. Matheson, in your brief on behalf of the Transportation Commission of the Maritime Board of Trade, you advance certain proposals for the separation from the Canadian National operation of the operations of the Intercolonial Railway as to that part which relates to freight rate making. The situation at the present time, is it not, is that the Canadian National Railways were put together and amalgamated in 1923?

A That is right.

Q And they have been operating for the last twenty-five years on the basis of the system provided for by the arrangement made at that time?

A P. C. 115.

Q And for the purpose of the record I should like to record what the situation is as found by the Board in the 21 per cent case. I refer to a short extract on pages 35 and 36 of that judgment where the Chief Commissioner says:

"The situation in respect to Canadian National Railways is quite different today to the situation prevailing in 1920 or even in 1926. The railways are now fully integrated into one great railway transportation system which is well and efficiently operated and managed."

Again the Assistant Chief Commissioner said at page 79, speaking of the Canadian National Railways:

"These railways, so important to Canada, have now become well integrated and have a high standard in service and operating efficiency."

I take it you would agree with me, Mr. Matheson, that there is adequate personnel in the Maritimes, and that the facilities for efficient service and operation are virtually unexcelled? Is that not so?

A Unexcelled - I would not go so far.

Q Well, in any event --

THE CHAIRMAN: Unexcelled in the Maritimes.

MR. O'DONNELL: Unexcelled in the Maritimes, then.

MR. FRAWLEY: You took in too much territory.

MR. O'DONNELL: That may be, but we will get the picture about that. I do not think for one minute that Mr. Matheson suggests that the service in the Maritimes is not a good service.

THE WITNESS: There have been complaints from time to time, although I would not say --

MR. O'DONNELL: Q. But in your vast and wide experience, as you set it out, you would agree that generally speaking the service afforded to the Maritimes by the Canadian National Railways is good?

A For example --

Q If you want to hedge on it --

A I am not hedging. Some have made complaints as to the service between here via McGivney Junction to Moncton, that it is not so good.

Q On the other hand, on the through route from Halifax to Central Canada and handling passengers from different points it is as good as any.

A I would say they have been looking after their roadbed and trying to improve and expedite the service. Perhaps we feel sometimes that it should be faster. That is a matter on which we try to be on the alert and take it up with the railways from time to time. They are not always perfect, you know.

Q Well, who is? Here you have a very up-to-date central control, have you not, electric control between Moncton and Halifax?

A That is an exceptionally good system.

Q I was interested therefore in the remark contained on page 11 of your brief where you make reference to a "closer and more ready contact" -- it is at the end of the first paragraph -- "between the railway administration and the Province of Nova Scotia." I was wondering what more you had in mind than that which presently prevails. Here in the Maritimes there is a vice-president and general manager, is there not, a regional operating man at Moncton?

A Yes. You see, if you will remember, this particular aspect had to do with the freight rate structure.

Q Yes.

A At the time, and there was a considerable amount of discussions and conferences, as I remember it, and I think there were some other discussions followed the Duncan Commission, and Sir Henry Thornton and his officers at the time this whole question was considered --

Q That is --

A Wait till I finish. Sir Henry Thornton said he was going to open up an office down in Moncton, and

there was an office there for years, and the idea was, anybody with any complaints come on in and sit down around a table and we will discuss them, if the service was poor, and so on, that is to say, in connection with freight rates.

Q That is some time back, and at the present time there is an office in Moncton with a vice-president and general manager.

A Yes, but the other office has been closed up.

Q In any event, the operating department operates at Moncton with a vice-president and general manager who reports directly to the president of the railroad?

A Yes.

Q Then there is an assistant to the vice-president and general manager?

A Yes.

Q A general superintendent of transportation?

A Yes.

Q I have the present list of officers, and for the information of the Commission I intend to ask that it be put on the record. There is a full and complete operating department at Moncton?

A Yes.

Q And then there is a Halifax division?

A Yes.

Q Which has a superintendent and two assistant superintendents?

A Yes.

Q Then there is the New Glasgow division with similar personnel?

A Yes.

Q The Moncton division with a superintendent,

three assistant superintendent and a terminal superintendent?

A Yes.

Q And the Campbellton division, the Edmundston division and the Charlottetown division.

THE CHAIRMAN: As I understand Mr. Matheson, his demand for this separation of the lines was based on one thing, and that was that, by having the Intercolonial a separate line, they could do certain things without being accused of unjust discrimination which the railway as now composed cannot do. Is that not right?

THE WITNESS: That is right.

THE CHAIRMAN: That is the whole case. There is no assertion that you have insufficient staff at Moncton or anywhere else.

MR. O'DONNELL: I want to show what there is, as a matter of fact.

THE CHAIRMAN: If you will address yourself to that other reason he gave --

MR. O'DONNELL: That is what I am coming to right now.

THE CHAIRMAN: That might be more helpful.

MR. O'DONNELL: Q. Apart from the operating department, there is a traffic department at Moncton?

A Yes.

Q There is a traffic manager?

A That is right.

Q A general freight agent?

A Yes.

Q And five or six divisional freight agents?

A Right.

Q And general passenger agents, quite a number of those, and a city passenger agent, and so on. All I am interested in, Mr. Chairman, is putting before the Commission exactly what the situation is. I know that it is suggested that one portion of the operations of the railway, the freight rate making aspect, should be handled in a manner different from the manner in which it is handled at the present time. I understand that, but I wanted the Commissioners to have the full picture as to the situation which prevails at the present time, and as to the closer and more ready contact between the railway and the people of the Maritimes which it was suggested at one time there should be. In the circumstances, Mr. Chairman, I would ask if the reporter might not put into the transcript at this point the list of Canadian National Railways' administrative officers in the Maritime Provinces.

THE CHAIRMAN: That is all right.

THE WITNESS: Perhaps you have overlooked that the position of vice-presidency was established pursuant to the time that this reference was made in connection with the Nova Scotia Commission, and the position then was general manager, whereas you have a vice-president now.

THE CHAIRMAN: Will we make that an exhibit?

MR. O'DONNELL: Either that, or put it right into the transcript. It is only three pages long.

MR. COVERT: It would be easier to put it right into the transcript.

LIST OF CANADIAN NATIONAL RAILWAYS' ADMINISTRATIVE
OFFICERS IN THE MARITIME PROVINCES

OPERATING DEPARTMENT:

Regional Operating men:

Vice-President and General Manager	Moncton, N.B.
Asst. to Vice President and General manager	"
General Superintendent	"
General Superintendent Transportation	"
Supervisor Transportation	"
Superintendent Car Service	"
Assistant Transport Economist	"
Supervisor of Safety and Fire Prevention	"

Halifax Division:

Superintendent	Halifax, N.S.
Asst. Superintendent	"
Asst. Superintendent	Truro, N.S.

New Glasgow Division:

Superintendent	New Glasgow, N.S.
Asst. Superintendent	"
Asst. Superintendent	Sydney, N.S.

Moncton Division:

Superintendent	Moncton, N.B.
Three (3) Asst. Superintendents	"
Terminal Superintendent	Saint John N.B.

Campbellton Division:

Superintendent	Campbellton, N.B.
Asst. Superintendent	"
Asst. Superintendent	Riviere du Loup, Que.
Asst. Superintendent	New Carlisle, Que.

Edmundston Division:

Superintendent	Edmundston, N.B.
Asst. Superintendent	"
Asst. Superintendent	Fredericton, N.B.

Charlottetown, P.E.I.:

Superintendent	Charlottetown, P.E.I.
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TRAFFIC DEPARTMENT

Traffic Manager	Moncton, N.B.
General Freight Agent	"
Division Freight Agent	"
Division Freight Agent	Halifax, N.S.
Division Freight Agent	Saint John N.B.
Division Freight & District Passenger Agent	Campbellton, N.B.
Division Freight & District Passenger Agent	Charlottetown, P.E.I.
City Freight and Passenger Agent	Fredericton, N.B.

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE
IN RESPONSE TO A RESOLUTION OF THE HOUSE OF REPRESENTATIVES

Passed at the City of Washington

January 1, 1882

E. J. Mendenhall, Commissioner of the General Land Office,
has the honor to acknowledge the receipt of a resolution of the
House of Representatives, passed on the 11th day of December,
1881, in relation to the lands of the United States, and
in reply to inform the House that the same has been
forwarded to the proper authorities for their consideration.

Very respectfully,
E. J. Mendenhall

Approved by the
Commissioner of the General Land Office

January 1, 1882

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Approved by the
Commissioner of the General Land Office

TRAFFIC DEPARTMENT Continued.

General Passenger Agent	Moncton, N.B.
District Passenger Agent	Halifax, N.S.
District Passenger Agent	Saint John, N.B.
General Agent, Passenger Department	Moncton, N.B.
City Passenger Agent	Halifax, N.S.
Terminal Passenger Agent	"
City Ticket Agent	"
General Baggage and mail agent	Moncton, N.B.

SLEEPING AND DINING CAR DEPARTMENT:

Superintendent	Halifax, N.S.
Asst. Superintendent	"
Agent	Moncton, N.B.

MECHANICAL DEPARTMENT:

General Superintendent Motive Power and Car equipment	Moncton, N.B.
Superintendent Motive Power	"
Superintendent Car Equipment	"
Electrical Engineer	"
Mechanical Engineer	"
General Boiler Inspector	"
Superintendent Moncton shops	"
General Foreman Motive Power Shops	"
Asst. Superintendent Car Shops	"
Supervisor Car Ferries	"
Master Mechanic	Halifax, N.S.
Master Mechanic	New Glasgow, N.S.
Master Mechanic	Moncton, N.B.
Master Mechanic	Campbellton, N.B.
Master Mechanic	Edmundston, N.B.
Master Mechanic	Charlottetown, P.E.I.

ENGINEERING DEPARTMENT

Chief Engineer	Moncton, N.B.
Principal Asst. Engineer	"
Building Engineer	"
Engineer of Bridges	"
Engineer of Maintenance of Way	"
Asst. Engineer of Maintenance of Way	"
Engineer of Right of Way	"
Signal Engineer	"

Division Engineer	Halifax, N.S.
Division Engineer	New Glasgow, N.S.
Division Engineer	Moncton, N.B.
Division Engineer	Campbellton, N.B.
Division Engineer	Edmundston, N.B.
Division Engineer	Charlottetown, P.E.I.

ACCOUNTING DEPARTMENT:

Regional Auditor	Moncton, N.B.
Asst. Regional Auditor	"

LEGAL AND CLAIMS:

Regional Counsel
Chief Claims Agent
District Freight Claims Agent

Mr. Matheson, cr. ex.

Moncton, N.B.
"
"

INVESTIGATION DEPARTMENT:

Superintendent of Investigation

Moncton, N.B.

FINANCIAL DEPARTMENT:

Regional Treasurer
Regional Paymaster

Moncton, N.B.
"

PURCHASING DEPARTMENT:

Purchasing Agent

Moncton, N.B.

INSURANCE, PENSIONS AND SERVICE RECORD DEPARTMENT

Asst. Superintendent

Moncton, N.B.

MEDICAL DEPARTMENT:

Regional Medical Officer
Regional Supervisor of First Aid

Moncton, N.B.
"

STORES DEPARTMENT:

General Storekeeper

Moncton, N.B.

PUBLIC RELATIONS DEPARTMENT:

Regional Public Relations Representative
Asst. regional public relations rep.

Moncton, N.B.
"

TELEGRAPH DEPARTMENT:

Superintendent
Plant Supervisor
Commercial Supervisor
Traffic Supervisor
Manager
Manager
Manager
Manager
Manager
Manager

Moncton, N.B.
"
"
"
Halifax, N.S.
Sydney, N.S.
Saint John, N.B.
Moncton, N.B.
Campbellton, N.B.
Charlottetown,
P.E.I.

EXPRESS DEPARTMENT:

Superintendent
Asst. Superintendent

Moncton, N.B.
"

AGRICULTURE AND COLONIZATION DEPARTMENT:

Agricultural Agent

Moncton, N.B.

INDUSTRIAL DEPARTMENT:

Industrial representative

Moncton, N.B.

CANADIAN NATIONAL STEAMSHIPS:

Local Manager
Local manager

Halifax, N.S.
Saint John N.B.

Mr. Thompson

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MR. O'DONNELL: Q. It is my information that there is more supervisory personnel per 100 miles on the Atlantic region than there is on the Central or the Western regions, and that this fact exists at the present time?

A. The operation is on a very broad scope; you must remember that.

Q. Is the complete set-up in the maritimes as sufficient as it would be if the railroad were operated as a complete and separate entity?

A. I do not know that. I do not think there is any brief against the personnel set-up; I do not think there is any question about that. I think they have a pretty good set-up.

Q. It is just as complete a set-up, as an organization, as if this railway was operated as a complete and separate entity?

THE CHAIRMAN: Does that mean that the present set-up is more satisfactory than it was at the time of the publication of the Jones Commission Report?

MR. O'DONNELL: I do not think so.

THE CHAIRMAN: Because that is what you deal with. You say that the Nova Scotian Royal Commission referred to representations made to it that there should be closer contact with the Maritime provinces than had been carried out, according to the spirit and letter. But you say it has since been carried out?

MR. O'DONNELL: There has been a number

of supervisory personnel added in the interval. And I shall leave it to the list which will appear in the transcript to show that it is a very full and adequate representation, and if Mr. Matheson has anything more complete in mind, I would be glad if he would indicate it. My information is that it is as adequate an operating personnel set-up in the maritimes and Atlantic region as if the railway were run as a separate entity. We have, of course, a Traffic Department, a Sleeping and Dining Car Department, a Mechanical Department, an Engineering Department, an Accounting Department, Legal and Claims Department, and an Investigation Department.

THE CHAIRMAN: Whatever deficiencies were found to exist by the Jones Commission have since been provided for?

MR. O'DONNELL: Generally speaking, I think that is correct. And as I remember it, the Jones Commission put in a couple of paragraphs in their report to the effect that they did not have time to go into that matter, but they were drawing it to the attention of the railways, attention to the reports which had been made to them, as follows:

"It has been further represented to us that unless this undertaking is fully carried out in spirit and in letter, the question will arise in Nova Scotia as to the desirability of operating the Intercolonial Railway as a separate entity."

THE CHAIRMAN: That was on the ground,

apparently, of inefficient operation. But the ground which Mr. Matheson takes today is that of providing special rates.

THE WITNESS: That is right; and at this time I should qualify this. At the time the principal grievance in the Maritimes was in connection with the freight rates. That is what they had in mind. It was in connection with the freight rate structure, principally, and the purpose and intent of the Intercolonial Railway and not in so far as its physical operation was concerned.

There were, probably, individual cases. There is no doubt about that; some questions about improving schedules to different points. And those things were brought into the picture, but the primary matter was the question of freight rates. And now, as in the brief, in regard to the splendid personnel which the Canadian National Railways has here now, in connection with their operations, and so on.

MR. O'DONNELL: Q. In connection with the traffic, you have, at Moncton, a traffic manager. Is not the situation such that you have very close co-operation with the Traffic Department, yourself?

A. Yes.

Q. And you get advance copies of tariffs, and things of that kind?

A. That is from Montreal.

Q. But you are in a position, are you not, to deal effectively with freight rate problems of the Maritimes and of maritime shippers, through the

Traffic Department at Moncton?

A. Most of my dealings in recent years have been done with Montreal.

Q. I suppose that was because you wanted to take a trip up there to see the people, personally, instead of dealing through the Moncton office?

A. For example, I had the cancellation of the 10,000-lb. minimum on livestock granted for the Maritimes.

Q. I assume you report to somebody, as well as the traffic manager at Moncton has to report to somebody, too; so your problems can be effectively handled at Moncton?

A. To a certain degree.

Q. Such as getting rates for places on the North American continent?

A. They would have to be referred to Montreal; and I find, sometimes, that I must be away in Montreal to discuss the matter.

Q. But if you had the Intercolonial Railway operating as a separate entity, do you think you would have any more ready access to information than you have today?

A. When you say "access to information", that is a different thing. They have been very good in giving me information. As a matter of fact, they have to do so under the Railway Act.

Q. Could you get quotations on rates as rapidly and effectively as you do today?

A. When I ask for quotations, I have to get them from Montreal.

Q. Would you have any more or any less if you were operating the Intercolonial Railway, for freight rate making purposes, separately? When you want a rate, let us say, to Los Angeles or to New Mexico, or anywhere else, do you think it would be easier if the Intercolonial Railway were a separate entity?

A. It does not make much difference there at all.

Q. Then what do you want more than you have at the present time?

A. The crux of the thing is in regard to establishing rates under conditions and circumstances when they appear to make it necessary, to facilitate movements in connection with a particular industry, to points outside the maritimes.

Q. Cannot that be done today?

A. In connection with local matters; I think the local traffic manager, with respect to points within the Maritimes, has a fairly free hand. But where the general policy of the company comes into play --

Q. You mean, where concessions which are other than those on the rate books are to be increased?

A. No. Let us say a decision has to be made about raising competitive rates. That must emanate from Montreal. From Montreal your instructions may go out that you are not going to put in any more competitive rates, and that a policy has been set. That emanates directly from Montreal.

Q. But if you went into the office of the traffic manager or the vice-president at Moncton, you could deal with all these matters effectively, could you not?

A. Indirectly.

Q. And if you were operating as a separate entity the I.C.R., for the purpose of freight rate matters, do you think it would be easier?

A. You would then be dealing directly with the traffic manager, who would then be in a position to make decisions.

Q. And do you say that he is not, to-day?

A. Oh, definitely not. When rates are involved, going out to territory in Ontario or Quebec, he could not. For example, I went in to see about this truck competition in Ontario. The freight rate situation has been such that it has upset the applecart of some of our industries. And they instructed me to go and see what could be done about it. He could not say to me: I will look into this and give you a rate.

Q. Do you think the traffic man could do that, if the I.C.R. were operating separately?

A. I think he would have more scope.

Q. Who would he negotiate with, for instance, in regard to the trucks? It was not on the I.C.R.?

A. You must get this quite clear. In so far as the I.C.R. and our proposal is concerned, going as far as Toronto, that so-called running rights -- that is absolutely a misnomer. It is the idea of giving the privilege, for rate making purposes, beyond Montreal

into Toronto, as you have had them in the Quebec markets. He would be in a position to sit down and make such rates as he saw fit.

In so far as rates beyond, we come into the general picture of the Maritime Freight Rates Act, and Montreal would then sit in and say: This will have to be discussed with our Montreal officers.

Q. So you would have to deal with Montreal?

A. Then, oh, yes; and for that purpose we come back to the Canadian National Railways.

Q. And with respect to connecting rail carriers in Canada, other than the Canadian National Railways and the United States, do you think you would have an easier time dealing with them, under the proposal you make, rather than under that which prevails today?

A. I am glad you brought that up. In so far as those matters are concerned, they would be part and parcel of the whole set-up in connection with international rates, at the Montreal office.

Q. So you would be back in Montreal, just as you are today, on any matter of that kind?

A. Yes. In connection with international rates and all these international rate matters; they are matters for the Canadian Freight Rate Association, in any event.

Q. But the Canadian Freight Association, in the final analysis, is the railways?

A. And the Intercolonial railway officer down here would be a member of that Association.

Q. Just as he is today a member of that Association. What is the advantage; that is what I am

interested in getting at, because, in the final analysis you must deal, once you get to Montreal, with the people who are in charge of the railway.

A. I think the advantages are set out quite clearly in the transcript.

Q. If you were able to get a rate that would be more favourable than that prevailing at the present time, for instance, through recourse to the proposal which you make by way of a set-up, and you get more favourable rates there to Toronto, do you think that would be the end of the matter?

A. What do you mean by that?

Q. Do you think all other shippers would be acquiescent in your getting that very much more favourable rate?

A. I do not see where they would get into the picture, if they already have got an advantage.

Q. But if you got a rate into Toronto, and some other shipper went to the Canadian Pacific and asked for a rate in the west or in Ontario, to meet the one you got, where would we be?

A. But that is being done every day, in connection with your freight rate structure.

Q. You would have the Canadian National Railways as distinct from your Intercolonial Railway?

A. I am speaking of a competitive rate, in giving that particular illustration there: there would be nothing to prevent, say, a shipper up in Sudbury who is producing some commodity going into Toronto, nothing to prevent his going to the Canadian

Pacific; and if the Canadian Pacific wanted to give him the rate, that is their business.

Q. And if the Canadian National decided to meet that rate from the same point in Ontario?

A. You are trying to say that there would be a rate war coming out of the picture?

Q. Doesn't that follow?

A. Not necessarily so. The situation might be from X to Y; from, let us say, London into Toronto; and you might have a competitive rate in there, and the traffic might be moving practically all by truck, like your potatoes move today. And the situation there is that the traffic manager down here would grant a rate. He could grant a rate to go into that particular market. And if the fellow in Sudbury wanted the same rate for the same reasons, that could follow.

Q. And if he got it from the other railroad, then the Canadian National would match that rate; and the end result would be that the railroads would be carrying traffic at a much lower rate, by reason of their competitive warfare?

A. Your competition in that particular case would be the competition of the trucks.

Q. I am not speaking of trucks; I am speaking of a rate to match a low rate, a lower rate than you now have.

A. There are different angles to that. If you are speaking of a rate where low market competition is involved, the traffic managers themselves have to use a certain amount of discretion and say, we

have reached an impasse on it, and we can't go any farther.

Q. If your I.C.R. man should put in a rate to suit him, you and him, do you think it would not be matched by others?

A. But the Canadian Pacific Railway puts in rates from day to day, and so do the other railways.

Q. And the end result would be that the various railroads would be in a worse position than they are today?

A. Not necessarily so, if they got more traffic.

Q. But where are they going to get more traffic?

THE CHAIRMAN: Q. To what extent would you be any better off in getting into a certain market? Suppose you want to get into a market where others are, by having a rate, without being accused of unjust discrimination. Could not the others reduce their rates and get the other producers to the same market?

A. That is quite true. The point is in connection with competition. Let us say it is potatoes moving in from the potato areas of Ontario. They practically all move in by truck. The railways get very little of that business.

We could, for example, go to the railways and say: Here is the situation. The railways might not have any competitive rate in at all. But we will say: We are being affected by these competitive rates by trucks going into Toronto markets, and we feel that, for us to get into that market, we should have a

special rate.

Q. And why can't you get it today?

A. The railways hesitate to give those rates because it might mean that they might have to give special rates from other points, all over their structure. I am speaking of the Transcontinental system, looking at it from the transcontinental approach; and they would be accused of unjust discrimination and of unreasonable rates under the Railway Act. This all goes back, of course, as well, to the purpose and intent of the Maritime Freight Rates Act.

Q. That Act gives you certain advantages, and says that any rates intended to implement those advantages shall not be unreasonable?

A. That is right, according to section 8.

Q. What is your additional advantage? It is put this way, negatively:

"The Board shall not approve or allow any tariffs which may destroy or prejudicially affect such advantages in favour of the persons or industries located elsewhere than in such select territory."

A. That is quite right. But in respect of competitive rates implemented in the central provinces---

Q. You are talking of competition with other carriers?

A. That is right.

Q. Other kinds of carriers?

A. And competitive rates of the other carriers as well as of the railways.

Q. Such as the trucks?

A. Trucks and water.

Q. Not between railways?

A. Oh, no.

Q. What about those competitive rates?

A. As between railways?

Q. No.

A. There has been considerable reduction amounting, as we estimate in our study, in some cases, to as high as 82 per cent. Some rates were reduced to meet competition.

Q. If any of those rates . prejudicially affected your advantages under the special Act, it must not be approved or allowed?

A. That is right.

Q. I mean, right today?

A. But there is no prejudice, in the mere cancellation of those rates when the goods still move by truck. That is what was found by the Board of Transport Commissioners; that ^{if} 70 per cent to 90 per cent of the traffic was moving by truck, there would not be any prejudice.

Q. I know it is between the railways, because the Board has no jurisdiction over truck rates. They cannot approve or allow truck rate tariffs.

Here are railway tariffs. They must mean railway tariffs.

A. Those are rates which they say the Canadian National Railways put in to meet motor truck or water competition.

Q. But they are railway tariffs?

A. Definitely.

Q. And they must not be approved, if they prejudice your special advantages given under this Act?

A. That is correct.

Q. But you say: supposing these railway tariffs are disallowed, the truck tariff still remains, and the Board has no jurisdiction over it?

A. That is true.

Q. And Parliament has no jurisdiction?

A. That is true; that is one of the points. The other point is that the Board has held that if the railways put in a rate to meet competition.--let us say they are only getting 20 per cent of the traffic with such a special rate, while 80 per cent of the traffic is moving by truck, then there is no prejudice; actually, no prejudice, because the traffic is moving by truck in any event.

Q. I understand.

A. You are not being hurt.

Q. I understand they have nothing to do with it.

A. Yes. But it follows from that, these competitive rates of the railways, while there is traffic going by truck, so you are not harmed, because it is going to go by truck in any event. So, if we took out those rates, where is your remedy?

Q. What would you do about that?

A. Under the set-up of the Intercolonial System, they could implement the rates to meet competition. It would be voluntary.

Q. Competition by trucks?

A. That is true.

Q. Then what is to prevent you from doing that today?

A. The point in connection with that is, that if they put in a rate to compete, from, let us say, Moncton or Grand Falls to Toronto to meet competition of potatoes going into Toronto--and there is actually no water competition in this particular territory--then they would be leaving themselves open to complete and unjust competition.

Q. All you need to do is to amend section 7 and section 8, so as to say that that shall not be considered as unjust discrimination because it is protecting the advantages of the select territory as given by the Act.

A. I think that would go a long way.

Q. You think it would go a long way?

Do you not think it would go the whole way? You would not need to disrupt the Canadian System to do that?

A. Yes, perhaps that would solve the problem.

MR. O'DONNELL: Q. Let us take a rate where there is no truck competition. Do you ship lumber from Moncton to Toronto?

A. Lumber shippers do that, I understand.

Q. And I think it was agreed that lumber rates are fairly low rates?

A. They are statutory rates.

Q. Yes, but are they not low rates?

A. They are statutory rates; there is a 20% reduction.

Q. Yes, but apart from that 20% reduction your lumber rates, generally, are low rates?

A. In the Eastern Rate Case, the railways are constrained, in the Maritimes, to grant low rates on lumber, in order to get lumber into Ontario and Quebec.

Q. But they are low rates?

A. Yes.

Q. Lumber is shipped from Moncton to Toronto; and on your theory, you could go into the freight rate manager's office of this Intercolonial Railway set-up and get a more favourable rate than presently is on the tariffs. Do you think that would be the end of it?

A. You see, Mr. O'Donnell, there are voluntary aspects about that which you must not overlook. He might not grant such a rate.

Q. On that day he might not; but on another day he might. And if he did, what would you say when the lumber shipper from Cochrane, for instance, to Toronto, found out that you were getting that rate which was lower than his rate, and which disrupted his market in Toronto? Don't you think he would apply for some concession from the other railroad?

A. Sure.

Q. Or even from the Canadian National Railways?

A. That has been done in our whole set-up in the United States and Canada today.

Q. And you would not deny him the right to

get into Toronto, as well?

A. The only point which might arise there would be the application of section 8 of the Maritime Freight Rates Act.

THE CHAIRMAN: You would not say that he has now acquired an advantage under the section which cannot be removed because of section 8; isn't that right?

(Page 4642 follows)

[illegible]

THE UNIVERSITY OF CHICAGO

1. The first part of the paper is devoted to a review of the literature on the topic of the role of the state in the development of the economy. It is found that the state has played a significant role in the development of the economy in many countries, particularly in the case of developing countries. The state has been able to mobilize resources, provide infrastructure, and create a favorable environment for investment and growth.

A. Yes; the thing is --

Q. You want to extend the advantage of shippers in the select territory further than they are to-day?

A. You see, there is a point there, Mr. Chairman, Under the Maritime Freight Rates Act, it is as of July 1, 1927, and there have been cases where there have been special rates granted in other sections of the country; and, following that through, as I see it, there would be a question there as to the application of the Maritime Freight Rates Act to this new rate that might be established to move traffic up to Toronto, so if ours had become lower, and the rate is lowered also from say Cochrane, there is a question there whether or not section 8 would become applicable.

MR. O'DONNELL: Q. Yes, but my point --

A. There is an angle there that would have --

Q. My point is this, Mr. Matheson: to-day lumber is shipped from Moncton and is shipped from Cochrane?

A. That is right.

Q. And on your theory, if you could get a lower rate than you have to-day -- to-day you have your statutory preference at all times; I am not quarrelling with that at all for the time being; you have a statutory preference as it is to-day?

A. Yes.

Q. But if you got a lower rate still, then would not the Cochrane shipper be entitled --

A. I am not denying that. Just as an illustration, let us assume that we get a 10% reduction in our rates.

tTHE CHAIRMAN: Q. Into a market where the Cochrane people --

A. That is right. The Maritime Freight Rates Act would not come into play if the other fellow came down 10%, but if he went down 15%, then I think it would come into play.

MR. O'DONNELL: Q. I am not talking about the application of the Maritime Freight Rates Act; it is there and operating at all times.

A. Yes, but you have to consider it.

Q. Yes, and I take it into consideration in what I say. To-day you are shipping lumber into Toronto from Moncton, and the Cochrane shipper is shipping lumber into Toronto?

A. That is right.

Q. And you have a preference over him to-day; but if you got a lower rate still than he has to-day, don't you think he would be endeavouring to equalize this differential that had previously existed, just as you are?

A. I answered that before. I said he would try to get a lower reduction, but he could not under the Maritime Freight Rates Act --

Q. He could not get more than would allow you your continuing 20% preference, I agree with you, yes.

A. Under the Railway Act, though, you would not have a case of unjust discrimination under that separate set-up.

Q. Of course he would not; I am not saying he would.

THE CHAIRMAN: Q. You remove that; you might even go so far as to say right in the Act it shall not be unjust discrimination, but then you raise for Parliament the question, what about the shippers?

A. That does raise that question.

COMMISSIONER INNIS: What would be the definition of unjust discrimination?

THE CHAIRMAN: It is in the Act now.

THE WITNESS: I am glad you brought that up, Dr. Innis. Unjust discrimination is one of the most difficult things to prove before the Board of Transport Commissioners; there are so many factors involved; each case would have to be determined on its merits.

THE CHAIRMAN: Q. Are there any cases such as Dr. Innis suggests, where discrimination has been considered unjust by the Board?

A. Oh, yes, sir; I can give you quite a few cases on that.

MR. O'DONNELL: Any number of cases. It is proved regularly.

THE CHAIRMAN: Well, we will get them.

COMMISSIONER INNIS: Q. Your point is, it would be very difficult to isolate a general description?

A. It is, for a criterion of unjust discrimination. I refer you to 46 C.R.C., page 14. There are quite a number of them.

MR. O'DONNELL: If the Commission would merely turn to page 117 of the 21% case, you will see several pages of citations there. It is something that is not unusual; it has been proved on occasions.

THE CHAIRMAN: That is why I say, if the Maritime Freight Rates Act were amended, say in the case put forward by Mr. Matheson, and the discrimination should not be unjust, it would close the door for an appeal to the Board against them. If the discrimination which you think now he ought to have by what is proposed were to be specified in the Maritime Freight Rates Act as not being unjust, then it would be taken away from the provisions of the Railway Act;

you could never complain against it.

MR. O'DONNELL: That may be.

THE CHAIRMAN: That is the point.

MR. O'DONNELL: But my suggestion there is that he has the statutory preference to-day, and he is shipping to-day, and if he got a still lower rate the other shipper would --

THE CHAIRMAN: Yes, because the complainants would not stop short at that; they would not say, "Oh, well, we cannot consider it unjust discrimination, therefore we will put up with it." They would be protesting just the same, and asking for a rate which would give them the same facility. You hear that in Ontario, you hear it --

MR. O'DONNELL: All over the country.

THE CHAIRMAN: You might hear it from Alberta.

MR. O'DONNELL: Alberta, even.

MR. FRAWLEY: We would be left then with this strait-jacket definition of unjust discrimination under which it seems impossible to make a case.

THE CHAIRMAN: Before amending the Act or taking any other step by dividing the railways of the Canadian National in order to bring the same result about, Parliament would have to consider the condition of other parts of Canada.

MR. FRAWLEY: They would probably have to hear us, yes.

THE CHAIRMAN: I do not say what Parliament would do; I do not know what Parliament would do.

MR. O'DONNELL: Q. You also advocated, Mr. Matheson, the appointment of a foreign freight traffic officer at Moncton?

A. That is right.

Q. Are not foreign freight traffic officers usually at the location of the head office of the shipping companies in the places where there are ocean ports, where information can be readily obtained? Isn't that the purpose of a foreign freight traffic officer? At the inland point of Moncton --

A. You say they are located necessarily at the ports?

Q. I do not say necessarily, but I say are they not usually so located? There are no steamship companies having head offices in Moncton, are there?

A. No, that is quite true, Mr. O'Donnell. I do not know where the foreign freight traffic managers of some of the railroads in the United States are located that have port connections, whether they are all like, for example, the Pennsylvania are located at Philadelphia, or not. I would have to look into that before I would answer that -- usually.

Q. You do not need to go as far as Philadelphia. To-day at Halifax and Saint John and these other ports are there not, under the set-up that presently prevails, freight traffic officers who can handle the requirements of the shipping public in matters of export and import freight?

THE CHAIRMAN: Who appoints these people?

MR. O'DONNELL: They are officers of the Canadian National in some cases, speaking of our own road, and I assume other people have a similar situation.

THE WITNESS: My point there primarily is that there be a senior officer located at Moncton whose function has to do with export and import matters and a contact with the ports, and doing such other things as may be necessary for the interest of the ports at Halifax --

Q. So he could go to Halifax the way you go to

Montreal, to deal with the situation first-hand?

A. Go to Halifax, Montreal, or anywhere, go to Toronto or go to the west --

Q. Do you feel there would be an advantage in that suggestion you make of having a foreign freight traffic officer at Moncton, rather than the way it is set up at the present time?

A. I have felt for a considerable time that there should be some person in Moncton with authority or looking into, or rather as a senior officer in connection with foreign export and import matters.

THE CHAIRMAN: Q. You mean in connection with ports outside Canada?

A. Yes, Mr. Chairman.

COMMISSIONER INNIS: Q. Do you feel the traffic agents are not sufficiently aggressive in search of traffic? Is that your point, not only with regard to export traffic, but also with regard to domestic traffic?

A. I am directing myself to the question of export and import traffic. I feel the foreign traffic manager here would be able to go up to Montreal with the foreign freight traffic managers there and the foreign freight traffic manager of the Canadian National Railways, and sit down and do everything in their power in connection with matters pertaining to export and import traffic via Maritime ports. In other words, he would be in very close touch with the situation in connection with our ports, make it his business to be in close touch.

MR. O'DONNELL: Q. Well, do you suggest that the officers presently in those places are not in close contact with shipping and export and import traffic?

A. Yes, but it is my thought in that regard, Mr. O'Donnell, that their scope is limited, that they would have more authority and would be more concentrated on the particular problem in the interest of our ports.

Q. During the war didn't they handle millions and millions of tons under the set-up they have at the present time?

A. Special officers were appointed to do those things.

Q. When the traffic required it?

A. Several officers were sent down in the various ports, and were located there, if I remember correctly, more or less permanently; but there should be somebody who is always looking for the interest of our ports and located right in the Maritimes.

Q. There is a manager at Halifax, is there not, to-day?

A. A traffic manager?

Q. Canadian National Steamships have a traffic man there?

A. Oh, that is Canadian National Steamships. You see, there are other steamship lines besides Canadian National Steamships.

Q. That is correct; but I am speaking of the railway which you wish to disjoint in certain cases; it provides that facility right to-day, doesn't it?

A. Not the same facilities I am referring to.

Q. Does it not provide adequate facility to-day to handle the traffic that is moving to-day?

A. I imagine they are doing a pretty good job, but I think there should be somebody who would have the interests of the Canadian National Railways in this region

right at heart.

Q. And you do not think that the hundred-odd people who are on the list of supervisory personnel that is now on the transcript have that interest at heart?

A. Their jurisdiction is limited. The situation, in my opinion --

Q. Put it this way: you never want to talk to anybody but the president; is that it?

A. Oh, now, Mr. O'Donnell, be reasonable."

Q. Well, I can't understand, Mr. Matheson. You have a Vice-President, General Manager, and a whole array of personnel, and you still think that there should be something more than that.

COMMISSIONER INNIS: Isn't that too many?

THE WITNESS: Perhaps if they got a foreign freight traffic manager instead of the others it might be better.

MR. O'DONNELL: Q. Now just let me ask you this question, bearing in mind the terms of reference of the Commissioners in this particular case. Do you really consider it a practical suggestion, and one which would improve the over-all railway transportation operation in Canada, from a broad national transportation policy which would best serve the general economic well being of all Canada? Do you believe that your proposal is really that?

A. I am keeping in mind, Mr. O'Donnell, the basic purpose and intent of the Intercolonial Railway.

Q. That is not from the national point of view, national transportation policy, but from the point of view,

of a particular section?

A. That comes in naturally from the national point of view as well, because that is part of our set-up in connection with our picture.

THE CHAIRMAN: Q. Have you in mind some machinery which would increase exports from Canada and imports into Canada;? That is not what you have in mind?

A. Oh, no.

Q. But you say that in so far as there is such business, exports and imports, more of it should go to the Canadian National and the Intercolonial Railway; is that what you say?

A. The officer, as I propose, would be located in Moncton, or he might be in Halifax or Saint John, as the case may be, but it would be his function to endeavour to put our ports forward.

Q. Our ports?

A. The ports of Halifax and Saint John --

Q. As against New York, for instance?

A. Oh, yes, sir, in order to attract traffic down through our channels.

Q. I see; then he is operating outside Canada; he is trying to divert imports into Canada, from an American port to a Canadian Maritime port?

A. That is right. He would be looking after the interest of our ports everywhere possible.

Q. Well, you think that is not being done now?

A. Well, you see, in the central set-up as it is constituted, it has been my feeling that it does not get the individual attention to the same extent through solicitation and making our case known and so on, as if the

officer were directly concerned with the particular port problems in connection with the Maritimes.

Q. That is, would a man in Moncton be more concerned, more directly concerned, with port problems than a man in Halifax or a man in Saint John?

A. As far as the site of his office is concerned, he could be in Saint John or he could be in Halifax, but I say Moncton because it is in between.

Q. It is not necessarily Moncton?

A. It is not necessarily Moncton, but I say Moncton because --

Q. Then do you think there are not enough of these people now looking after this business in Saint John and Halifax and Montreal and Vancouver?

A. It is my point there, more or less, sir, to have some body in this section of the country on the railroad, a senior officer so to speak, who would have as part of his functions to go out and contact the steamship lines, the shippers, and so on, in every way possible, to assist in developing traffic through the ports of Saint John and Halifax.

Q. There is nobody now?

A. I do not know of anybody who would have that function or those administrative duties, consisting just principally of that. Somebody might be concerned with matters pertaining to the ports, but I do not know of anybody who has anything like this broad scope that I have in mind.

Q. Then it is the solicitation that you want?

A. It is primarily solicitation.

Q. To shippers outside of Canada, to use Halifax and

Saint John instead of using New York and Boston?

A. That is right; and also the shippers within Canada who use those foreign ports as well.

MR. O'DONNELL: Q. Just on that point, Mr. Matheson, haven't we people doing that every day in the year right in Halifax and Saint John, and haven't we people in London, England, doing the same thing, and at various other points on the globe?

A. You have general freight solicitors, but what I am concerned about is somebody directly concerned with our own ports.

Q. Who other than the President -- and there is only one President -- haven't you got on the list I put on the record? You have got the Vice-President and I don't know how many, but ^{there} is far more personnel in this region than anywhere else in the country.

A. Most of these men there that you have got are operations, not traffic.

Q. That is right; well we have got about 10 or 12 -- 15 traffic people.

THE CHAIRMAN: Where? Are you talking of Halifax?

MR. O'DONNELL: Halifax is one. In the Maritimes we have a Traffic Department. There is a Traffic Manager at Moncton, a General Freight Agent at Moncton, a Division Freight Agent at Moncton, a Division Freight Agent at Halifax, a Division Freight Agent at Saint John, a Division Freight & District Passenger Agent at Campbellton, a Division Freight & District Passenger Agent at Charlottetown, a City Freight and Passenger Agent at Fredericton, a General Passenger Agent at Moncton, a District Passenger Agent at Halifax, a District Passenger Agent at Saint John, a General

Agent Passenger Department at Moncton, a City Passenger Agent at Halifax, a Terminal Passenger Agent at Halifax, a City Ticket Agent at Halifax, and a General Baggage and Mail Agent at Moncton. In addition to that we have the Sleeping and Dining Car personnel, and we have --

THE CHAIRMAN: You have solicitors for traffic to Halifax and Saint John in Europe, haven't you?

MR. O'DONNELL: Yes.

THE CHAIRMAN: In London and in Paris?

MR. O'DONNELL: Certainly.

THE CHAIRMAN: And in other European ports.

MR. O'DONNELL: And I am just wondering how the separate entity or portion of separate entity Mr. Matheson is suggesting could provide anything like the adequate services provided to-day.

THE WITNESS: Mr. O'Donnell, I think I qualified that also, that even if that were not so, in the Intercolonial system, there should be an Assistant Traffic Manager or somebody who would have complete export and import matters under his jurisdiction in Moncton.

Q. Do you say that the Traffic Manager reporting to the Vice-President in Moncton has not got that to-day?

A. In connection with the solicitation and in an endeavour to attract traffic through our Maritime ports, I think it would be better done by somebody with that authority; that is my opinion, and perhaps we do not meet on that; that is my view.

Q. I am just asking you; I have no opinions at all; I am asking questions. Now, I don't know whether you answered the question that I asked you or not, if you really considered it was a practical suggestion to break up

something, or part of something at least, that has been running for twenty-five years -- the consolidation of the Canadian National system -- by endeavouring to cut off a portion of it for the express purpose that you mentioned. I asked you if from the point of view of broad national policy that would best serve the economic well-being of Canada, using the words of the reference?

A. I think I answered that, Mr. O'Donnell.

Q. I don't remember.

A. I will answer that. In regard to our particular position and the purpose and intent of the Intercolonial Railway, I think it is in the interest of the whole country.

Q. Now would you turn to page 10 of your brief. In the first paragraph, Mr. Matheson, the closing sentence in the first paragraph, you say:

"It is evident from the Intercolonial Act that the Governor-in-Council was given absolute power as to the operation of the Railway when completed, but the railway was to be 'a public work, belonging to the Dominion of Canada'. In other words, it appears that only the actual running operation could be transferred to another railway."

I would ask you where you find any authority for saying that?

A. Isn't it right in my brief here, Mr. O'Donnell?

Q. Well, you quote resolution 66, if that is what you refer to.

A. No, no; two sections of the Intercolonial Act.

Q. Well, two sections of the Intercolonial Act as well. I would ask you where you find anything in there that makes that fine distinction. The Intercolonial Act, as

quoted on page 3 of the brief, section 25, says:

"Whenever the Railway, or any portion thereof, shall be completed, it shall be lawful for the Governor-in-Council to make suitable arrangements for the working of same;...."

A. That is right.

Q. And then it goes on:

"but such arrangements shall not be for any longer period...."

Now, the working of the railway, I take it, includes all its aspects, does it not?

A. That is right.

Q. The operation of its freight trains, the collection of the freight and the revenues, the payment of the expenditures, the wages, and so on?

THE CHAIRMAN: What about that limitation, Mr. O'Donnell, to section 25:

"but such arrangements shall not be for any longer period than the end of the Session of Parliament next after making of same."

Is that still a live provision?

A. As I understand it, Mr. Chairman, it is still effective, although Mr. O'Donnell may have other information to the contrary. In other words, the Intercolonial Railway has only been entrusted to the Canadian Government, Canadian National.

MR. O'DONNELL: But the Canadian National Act and a whole array of Acts have been passed since the Intercolonial Act of 1867. Parliament has considered that any number of times.

THE CHAIRMAN: If there is anything in a later Act which conflicts with this, the later Act governs.

MR. O'DONNELL: That is what I am asking, if Mr. Matheson knows of any authority which supports that statement other than his reference to the Intercolonial Act.

THE WITNESS: In other words, it appears that only the actual running operation could be transferred to another railway?

MR. O'DONNELL: Q. Yes.

A. Now, what is the question?

Q. I ask you where you find any authority for that statement?

A. Well, that is my own inference, Mr. O'Donnell.

Q. I see.

A. From what I have studied on it.

THE CHAIRMAN: Well, according to what it says here, the description given is that the Governor-in-Council may make suitable arrangements for the working of same. First it says the Intercolonial Railway is a public work, belonging to the Dominion of Canada, and then the Governor-in-Council may make suitable arrangements for the working of same, but those arrangements must expire, that is, they shall not be for any longer period than the end of the Session of Parliament next after making of same. That is what we have in mind. But then, Mr. O'Donnell tells us that since then there has been much more legislation passed which abrogates all that; if so, that is what governs. It is the present intention of Parliament as defined in their Act. These are only Acts of Parliament. Is that right?

MR. O'DONNELL: My understanding, my lord, is that the entrustment of these railways to the Canadian

National Railways was by statute.

MR. SMITH: Section 15 of the Canadian National Railways Act.

MR. O'DONNELL: There is a whole array of them.

THE CHAIRMAN: What year was that?

MR. SMITH: That was passed in 1922.

MR. O'DONNELL: Before the consolidation.

MR. SMITH: Section 15.

THE CHAIRMAN: You do not know the chapter?

MR. O'DONNELL: I can get the whole history, my lord. There are a number of statutes.

MR. SMITH: Section 19, my lord, I think is the one.

THE CHAIRMAN: What is the chapter?

MR. SMITH: It is now chapter 172 of the Revised Statutes:

"19. The Governor in Council may from time to time by Order in Council entrust to the Company the management and operation of any lines of railway or parts thereof, and any property or works of whatsoever description, or interests therein, and any powers, rights or privileges over or with respect to any railways, properties or works, or interests therein, which may be from time to time vested in or owned, controlled or occupied by His Majesty...."

Pursuant to that, as I understand it, Order in Council 115 was passed in January --

THE WITNESS: January 20, 1923.

THE CHAIRMAN: Consolidating the various lines?

MR. SMITH: Well, it was the managment of the Canadian Government Railways entrusted to the Canadian

National Railway Company.

MR. O'DONNELL: We put the full details of the various statutes and Orders in Council on the record in the 21% case, my lord. I haven't them in mind at the present time, but I would be glad to get them if the Board would like them. All I am asking Mr. Matheson is where he finds any support for that statement at page 10 to which I referred him and he says that is merely his inference. That is sufficient for my purpose.

THE CHAIRMAN: That Act sets up a new company, does it?

MR. SMITH: Yes, my lord.

THE CHAIRMAN: Section 19 refers to the company.

(Page 4657 follows)

THE WITNESS: As I understand it, there is just the Canadian National Railway Company that has been created which took over the Grand Trunk operations, but that in so far as the Intercolonial Railway it was only entrusted to the Canadian National Railways so-called.

MR. O'DONNELL: Q. Suitable arrangements, using the words in the original Intercolonial Railway Act, have apparently been made through the years and by statutes and orders in council, and that is how the matter stands at the present time?

A Those are aspects of law, and far be it from me to try and discuss them with you.

Q I was wondering if you had any support for that view.

A No, that is my deduction.

THE CHAIRMAN: What happens is that this Act sets up a company, something new, and then goes on to say:

"The Governor in Council may from time to time.....entrust to the Company the management and operation of any lines of railway or parts thereof.....which may be from time to time vested in or owned, controlled or occupied by His Majesty..."

Instead of your old Act, it said that they must just hand them over for working purposes from year to year. This changes that.

THE WITNESS: As I understand it, the Intercolonial has only been entrusted to the Canadian National. Does that obviate this year to year aspect?

THE CHAIRMAN: Yes, it makes it permanent as long as the government wants it to be. The matter must go before

Parliament every year where it is discussed.

"Any such Order in Council shall be laid before Parliament within ten days after the opening of the next ensuing session, or if Parliament be sitting at the time such Order in Council is passed, then within ten days from the date of said Order in Council."

That would give an opportunity each year to discuss the matter whether these lines should be all disassociated again, if you like. It is not taken away from Parliament.

THE WITNESS: No. I am glad you made that point.

THE CHAIRMAN: We will adjourn now to Charlottetown.

---The Commission adjourned at 1.05 p.m. to resume at Charlottetown, Prince Edward Island, on Monday, July 25, 1949, at 10.30 a.m.

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